

**STANDARD AGREEMENT**

STD 213 (DHS Rev 7/04)

REGISTRATION NUMBER

AGREEMENT NUMBER

**06-55044**

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

(Also referred to as CDHS, DHS, or the State)

California Department of Health Services

CONTRACTOR'S NAME

(Also referred to as Contractor)

Navigant Consulting, Inc.

2. The term of this Agreement is: July 1, 2006 through June 30, 2007

3. The maximum amount of this Agreement is: \$ 1,000,000  
One Million Dollars

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A – Scope of Work	6 pages
Exhibit A, Attachment I – Deliverable Timeline	1 page
Exhibit B – Budget Detail and Payment Provisions	4 pages
Exhibit B, Attachment I – Budget	1 page
Exhibit C * – General Terms and Conditions	<u>GTC 306</u>
Exhibit D(F) – Special Terms and Conditions (Attached hereto as part of this agreement)	26 pages
Exhibit E – Additional Provisions	4 pages
Exhibit F – Resumes	16 pages
Exhibit G – Contractor's Release	1 page
Exhibit H – Travel Reimbursement Information	2 pages
Exhibit I – HIPAA Business Associate Addendum	7 pages

Items shown above with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.  
These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language>.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**CONTRACTOR**

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

Navigant Consulting, Inc.

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Kevin D. Harris, Managing Director

ADDRESS

1201 Third Avenue, Suite 3320  
Seattle, WA 98101**STATE OF CALIFORNIA**

AGENCY NAME

California Department of Health Services

BY (Authorized Signature)

Jayna Querin, Chief  
CMU Policy & Procedures

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Terri L. Anderson, Chief, Contracts and Purchasing Services Section

ADDRESS

1501 Capitol Avenue, Suite 71.2101, MS 1403, P.O. Box 997413  
Sacramento, CA 95899-7413California Department of  
General Services Use Only
☒ Exempt per: W&I Code 14126.02 (c)

**Exhibit A**  
**Scope of Work**

**1. Service Overview**

Contractor agrees to provide to the Department of Health Services (DHS) the services described herein.

Contractor will provide consultant expertise for a review of the current skilled nursing reimbursement methodology as well as an examination of alternatives. These alternatives must minimally include consideration of existing or proposed acuity classification methods, case mix factors, labor based factors, and geographic cost differentials.

**2. Service Location**

The Contractor will perform some of the services on site at the Medi-Cal Policy Division, 1501 Capitol Avenue, Sacramento, CA, 95814. The remainder of services will be performed out-of-state.

**3. Service Hours**

The services shall be provided during working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official holidays.

**4. Projects Representatives**

A. The project representatives during the term of this agreement will be:

**Department of Health Services**

Ruben Romero, Chief  
LTC System Development Unit  
Telephone: (916) 552-9635  
Fax: (916) 552-9504  
E-mail: Rromero1@dhs.ca.gov

**Contractor**

Navigant Consulting, Inc.  
Kevin D. Harris, Managing Director  
Telephone: (206) 442-3000  
Fax: (206) 622-2787  
E-mail: Kharris@navigantconsulting.com

B. Direct all inquiries to:

**Department of Health Services**

Administrative Support Unit  
Attention: Dalia Gouveia  
1501 Capitol Avenue, MS 4612  
P.O. Box 997413  
Sacramento, CA 95899-7413

**Contractor**

Navigant Consulting, Inc.  
Attention: Kevin D. Harris, Managing Director  
1201 Third Avenue, Suite 3320  
Seattle, WA 98101

Telephone: (916) 552-9599  
Fax: (916) 552-9477  
E-mail: Dgouveia@dhs.ca.gov

Telephone: (206) 442-3000  
Fax: (206) 622-2787  
E-mail: Kharris@navigantconsulting.com

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

**Exhibit A**  
**Scope of Work**

**5. Services to be Performed**

- A. As the single state agency responsible for Medicaid rate development and implementation, DHS requires the consulting assistance of the Contractor to help define alternatives and options for California's reimbursement methodologies. The following scope of work includes many tasks designed to assist DHS in its decision making process. The final decisions regarding selection and implementation of long term care rate reimbursement methodology are the sole responsibility of DHS.
- B. Contractor shall examine several alternative rate methodology models for a new Medi-Cal reimbursement system for skilled nursing facilities to include, but not be limited to, consideration of the following:
  - 1) Classification of residents based on the resource utilization group system or other appropriate acuity classification system.
  - 2) Facility specific case mix factors.
  - 3) Direct care labor based factors.
  - 4) Geographic or regional differences in the cost of operating facilities and providing resident care.
  - 5) Facility-specific cost based rate models used in other states.
  - 6) Implementation requirements (including technical data requirements, fiscal resources, and timeframes).
- C. Contractor shall conduct various tasks in order to assist DHS with the development of a new Medi-Cal reimbursement system for skilled nursing facilities. Tasks may include, but not be limited to, the following:
  - 1) Collect, review, and analyze data from State and other sources.
  - 2) Review current flat-rate reimbursement methodology for skilled nursing facilities.
  - 3) Collect and review available long-term care data sources from California agencies.
  - 4) Conduct a review of all data sets used in the evaluation of California's reimbursement system.
  - 5) Review current skilled nursing facility audit program.
  - 6) Review audit work papers and discuss material audit adjustments with auditors.

**Exhibit A**  
**Scope of Work**

- 7) Review available monitoring and reporting systems associated with quality indicators.
  - 8) Review potential quality of care incentives under various reimbursement scenarios.
  - 9) Conduct research on quality of care incentives used by other state Medicaid agencies.
  - 10) Conduct research on methodology used by Medicare to reimburse skilled nursing facility services.
  - 11) Meet with interested parties and various state Medicaid agencies.
  - 12) Evaluate options for California's Long-Term Care reimbursement methodology, including a review of other state's reimbursement methodologies.
  - 13) Prepare status report to California State Legislature.
  - 14) Present alternative reimbursement methodologies and final recommendations to DHS.
  - 15) Provide DHS with technical assistance relative to the implementation of the new Medi-Cal reimbursement system.
- D. Tasks performed under the contract will be reimbursed on an hour times rate basis. The Contractor will not perform any services which exceed the available funding unless the contract is amended to provide additional funding. The Contractor will not be reimbursed for any services performed that exceed the available funding for the contract. Awarding of the contract does not guarantee any fixed sum of money. All work is to be authorized in advance in writing by DHS on an as-needed basis.

**6. DHS Contract Officer Responsibilities**

- A. The Contractor will carry out the work under the direction and control of DHS. DHS will designate a Contract Officer and notify the Contractor of such person's designation in writing. The Contract Officer shall make all determinations and take all actions as are appropriate under this contract subject to the limitations of applicable federal and California laws and regulations. The Contract Officer may delegate his/her authority to act to an authorized representative through written notice to the Contractor.
- B. Although there will be continuous liaison with the Contractor team, the DHS Project Director, or appropriate representative designated by the State, will converse at least monthly with the Contractor's project manager (or an appropriate representative) for the purpose of reviewing progress and providing necessary guidance.

**Exhibit A**  
**Scope of Work**

- C. Subservient to contract issuance, Contractor will submit brief, written monthly summaries of progress which outline the work accomplished during the reporting period.

**7. Authorizing Legislation**

The intent of Assembly Bill (AB) 1629, (Chapter 875, Statutes of 2004, W&I Code Sections 14126-14126.035) is to implement a facility specific rate setting system for free standing nurse facilities effective and commencing on August 1, 2005.

**8. Allowable Informal Scope of Work Changes**

- A. The Contractor or the State may propose informal changes or revisions to the activities, tasks, deliverables and/or performance time frames specified in the Scope of Work, provided such changes do not alter the overall goals and basic purpose of the agreement.
- B. Informal SOW changes may include the substitution of specified activities or tasks; the alteration or substitution of contract deliverables and modifications to anticipated completion/target dates.
- C. Informal SOW changes processed hereunder, shall not require a formal agreement amendment, provided the contractor's annual budget does not increase or decrease as a result of the informal SOW change.
- D. Unless otherwise stipulated in this agreement, all informal SOW changes and revisions are subject to prior written approval by the State.
- E. In implementing this provision, the State may provide a format for the Contractor's use to request informal SOW changes. If no format is provided by the State, the Contractor may devise its own format for this purpose.

**9. Subcontract Requirements**

- A. This provision replaces and supersedes provision 5 of Exhibit D(F).
- B. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in paragraph B(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - 1) The Contractor must provide in its request for authorization, all particulars necessary for evaluating the necessity or desirability of incurring such cost.
  - 2) The State may identify the information needed to fulfill this requirement.
  - 3) Subcontracts performed by the entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

**Exhibit A**  
**Scope of Work**

- a. A local governmental entity or the federal government,
  - b. A State college or university from any State,
  - c. A Joint Powers Authority,
  - d. An auxiliary organization of a California State University or a California Community college,
  - e. A foundation organized to support the Board of Governors of the California Community Colleges,
  - f. An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
  - g. Entities of any type that will provide subvention aid or direct services to the public.
  - h. Entities and/or service types identified as exempt from advertising in State Administrative Manual Section 1233, subsection 3. View this publication at the following Internet address: <http://sam.dgs.ca.gov>,
  - i. Other academic institutions of higher education, or consortia of academic institutions of higher education (including private universities and educational institutes),
  - j. Entities whose name and budgeted costs have been submitted to DHS in response to a competitive Invitation for Bid or Request for Proposal.
- C. DHS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this agreement.
- 1) Upon receipt of a written notice from DHS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHS.
- D. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHS. DHS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHS.
- E. Contractor shall maintain a copy of each subcontract entered into in support of this agreement and shall, upon request by DHS, make said copies available for approval, inspection, or audit.
- F. DHS assumes no responsibility for the payment of subcontractors used in performance of this agreement. Contractor accepts sole responsibility for the payment of subcontractor used in performance of this agreement.
- G. The Contractor is responsible for all performance requirements under this agreement even though performance may be carried out through a subcontract.
- H. When entering into a consulting service agreement with DHS, the Contractor may be required to supply budget detail for each subcontractor and/or each major subcontracted activity under this agreement.
- 1) Budget detail format and submission requirements will be determined by DHS.

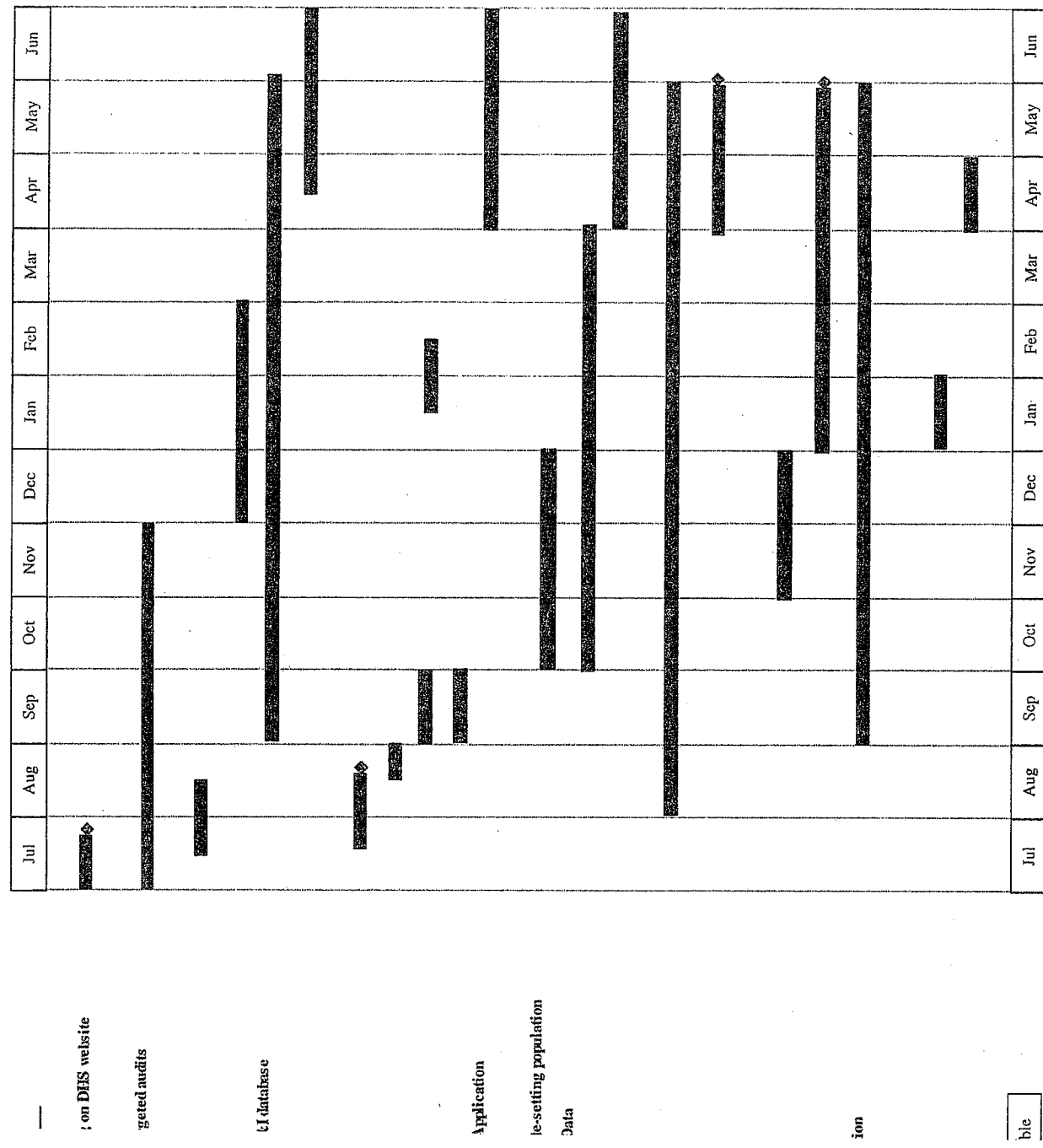
**Exhibit A**  
Scope of Work

- 2) Methods of including budget detail in this agreement, if applicable, will be determined by DHS.
  - 3) Any subcontractor budget detail displayed in this agreement, or incorporated by reference, is included for information purposes only. Changes to a subcontractor's identity or budget detail shall not require the processing of a formal amendment to this agreement.
- I. The Contractor shall ensure that all subcontracts for services include provisions(s) requiring compliance with applicable terms and conditions specified in this agreement.
  - J. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

“(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHS, to permit DHS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records.”
  - K. Unless otherwise stipulated in writing by DHS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this agreement.
  - L. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the applicable numbered provisions of this exhibit.

Exhibit A, Attachment I  
Deliverable Timeline

Navigant Consulting, Inc.  
06-55044





**Exhibit B**  
**Budget Detail and Payment Provisions**

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the budget(s) attached hereto.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Dalia Gouveia  
Department of Health Services  
Administrative Support Unit  
Medi-Cal Policy Division  
MS 4612  
1501 Capitol Avenue  
P.O. Box 997413  
Sacramento, CA 95899-7413

- C. Invoices shall:
  - 1) Be prepared on Contractor letterhead. If invoices are not on produced letterhead, invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the service performed under this contract.
  - 2) Bear the Contractor's name as shown on the agreement.
  - 3) Identify the billing and/or performance period covered by the invoice.
  - 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or costs categories expressly identified as allowable in this agreement and approved by DHS.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this agreement does not appropriate sufficient funds for the program, this agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this agreement and Contractor shall not be obligated to perform any provisions of this agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

**Exhibit B**  
Budget Detail and Payment Provisions

**4. Timely Submission of Final Invoice**

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding.
- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.
- C. The Contractor is hereby advised of its obligation to submit, with the final invoice, a "**Contractor's Release (Exhibit G)**" acknowledging submission of the final invoice to the State and certifying the approximate percentage amount, if any, of recycled products used in performance of this agreement.

**5. Allowable Line Item Shifts**

- A. Cumulative line item shifts of up to \$10,000 per line item may be made, provided no line item is increased or decreased by more than \$10,000 and the annual agreement total is not changed.
- B. Line item shifts meeting this criteria shall not require a formal agreement amendment.
- C. Contractor shall adhere to State requirements regarding the process to follow in requesting approval to make line item shifts.
- D. Line item shifts may be proposed/requested by either the State or the Contractor.

**6. Progress Payment Withholds**

- A. This provision replaces and supersedes provision 22 of Exhibit D(F).
- B. Progress payments may not be made more frequently than monthly in arrears for work performed and costs incurred in the performance of the agreement. In the aggregate, progress payments may not exceed 90 percent of the total agreement amount, regardless of agreement length.
- C. Ten percent (10%) may be withheld by DHS from each invoice submitted for reimbursement, under the following conditions:
  - 1) For services and costs associated with contractor and/or subcontractor performance that is considered to be of an ongoing nature or performed continuously throughout the term of the agreement.
  - 2) For individual services associated with a specific agreement deliverable that has not yet been received or completed in its entirety.

**Exhibit B**  
**Budget Detail and Payment Provisions**

- 3) For individual and/or distinct tasks, work plans, or project activities that have not yet been completed in their entirety.

**D. Release of Amounts Withheld**

As individual and/or distinct tasks, services, work plans, or project activities are completed in their entirety by either the Contractor or Subcontractor and any scheduled/required deliverables or reports are delivered to DHS; then any funds so withheld may be released to the Contractor upon acceptance and/or acknowledgement that all such items have been completed to the full satisfaction of DHS.

**E. Payment Requests Excluded from the 10 Percent (10%) Withhold**

Ten percent (10%) payment withholds shall not be applied to reimbursements or periodic payment requests for direct costs associated with equipment purchases, media buys, operating expense items, and other procurements not directly associated with the Contractor's personal performance.

**7. Expense Allowability / Fiscal Documentation**

- A. Invoices, received from a Contractor and accepted and/or submitted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to DHS upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
- D. If travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. For more information on allowable travel and per diem expenses and required documentation, see Exhibit H entitled, "Travel Reimbursement Information".

**8. Travel**

- A. Travel from the Contractor's designated home office in Seattle, Washington to California.
- B. Travel between two or more locations within the State of California, if the designated location is further than 30 miles from each individual Contractor consultant's office location.
- C. Food and lodging during the periods of travel at rates not to exceed the amounts paid to the State's non-represented employees at the time the expense is incurred.

**Exhibit B**  
Budget Detail and Payment Provisions

- D. Travel from each individual Contractor consultant's office location to locations within California and travel within California shall be considered in state travel and be reimbursed in accordance with all of Exhibit H, except for item 1.d. of Exhibit H.
- E. Travel from other states outside of California to California (other than from the individual Contractor consultant's office location) or to other states outside of California, shall be reimbursed in accordance with Exhibit H, item 1.d. In addition, travel from states outside of each individual Contractor consultant's office location to the Contractor's home office shall be reimbursed in accordance with Exhibit H, item 1.d.

**Exhibit B, Attachment I**  
**Budget**

The basis of payment for services required by this contract shall be all-inclusive hourly rates of the Contractor's professional personnel for time actually authorized and spent performing the required services. These hourly rates shall include, but not be limited to, all overhead costs of the Contractor, wages, benefits, profit, office support costs, clerical and support personnel, equipment, duplicating costs, insurance, etc. The projected personnel hours are only estimates and will fluctuate based on the service needs. State and Contractor reserve the right to mutually agree to adjust the number of hours worked between class levels provided the total amount shown for Projected Personnel Fees remains unchanged. The hourly rates payable to the Contractor for services rendered under this contract are as follows:

**Personnel**

<u>Personnel Class</u>	<u>Hourly Rates/Fees</u>
Consultant Level One	\$305
Consultant Level Two	\$250
Consultant Level Three (To be determined)	\$190
Consultant Level Four	\$170

Projected Personnel Fees and Expenses \$973,500

**Travel** (See Exhibit B, #9) \$25,000

**Other Costs** \$1,500

Other extraordinary non-incidental expenses incurred by the Contractor in performing a specific task with prior authorization by the Contract Manager.

Other incidentals including but not limited to such services as courier services, specialized Internet database search services, etc.

**Total Costs** \$1,000,000

## Special Terms and Conditions

*(For federally funded service contracts and grant awards)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition. The terms "contract", "Contractor" and "Subcontractor" shall also mean "grant", "Grantee" and "Subgrantee" respectively.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount, agreement is federally funded, etc.). The provisions herein apply to this agreement unless the provisions are removed by reference on the face of the agreement, the provisions are superseded by an alternate provision appearing elsewhere in the agreement, or the applicable conditions do not exist.

### Index of Special Terms and Conditions

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## 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements.)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal

Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHS, the Contractor may request in writing to DHS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## 2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with contract funds.)

Reimbursement for travel and per diem expenses from DHS under this agreement shall, unless otherwise specified in this agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for nonrepresented state employees as stipulated in DHS' Travel Reimbursement Information Exhibit. If the DPA rates change during the term of the agreement, the new rates shall apply upon their effective date and no amendment to this agreement shall be necessary. Exceptions to DPA rates may be approved by DHS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

## 3. Procurement Rules

(Applicable to all agreements in which equipment, miscellaneous property, commodities and/or supplies are furnished by DHS or expenses for said items are reimbursed with state or federal funds.)

### a. Equipment definitions

Wherever the term equipment and/or miscellaneous property is used, the following definitions shall apply:

- (1) **Major equipment:** A tangible or intangible item having a base unit cost of \$5,000 or more with a life expectancy of one (1) year or more and is either furnished by DHS or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more that is listed on the DHS Asset Management Unit's Minor Equipment List and is either furnished by DHS or the cost is reimbursed through this agreement. Contractors may obtain a copy of the Minor Equipment List by making a request through the DHS program contract manager.
- (3) **Miscellaneous property:** A specific tangible item with a life expectancy of one (1) year or more that is either furnished by DHS or the cost is reimbursed through this agreement. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.



- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this agreement.
- (1) Equipment purchases shall not exceed \$50,000 annually.
- To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHS program contract manager, to have all remaining equipment purchased through DHS' Purchasing Unit. The cost of equipment purchased by or through DHS shall be deducted from the funds available in this agreement. Contractor shall submit to the DHS program contract manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with DHS. The equipment will be delivered to the Contractor's address, as stated on the face of the agreement, unless the Contractor notifies the DHS program contract manager, in writing, of an alternate delivery address.
- (2) All equipment purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:
- (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement contract in which, to his or her knowledge, he or she has a financial interest.
- (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
- (c) Procurements shall be conducted in a manner that provides for all of the following:
- [1] Avoid purchasing unnecessary or duplicate items.
- [2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
- [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHS, prior written authorization from the appropriate DHS program contract manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHS (e.g., when DHS has a need to monitor certain purchases, etc.), DHS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHS reserves the right to either

deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHS determines to be unnecessary in carrying out performance under this agreement.

- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### 4. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or miscellaneous property is furnished by DHS and/or when said items are purchased or reimbursed with state or federal funds.)

- a. Wherever the term equipment and/or miscellaneous property is used in Provision 4, the definitions in Provision 3, Paragraph a shall apply.

Unless otherwise stipulated in this agreement, all equipment and/or miscellaneous property that are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement shall be considered state equipment and the property of DHS.

- (1) DHS requires the reporting, tagging and annual inventorying of all equipment and/or miscellaneous property that is furnished by DHS or purchased/reimbursed with funds provided through this agreement.

Upon receipt of equipment and/or miscellaneous property, the Contractor shall report the receipt to the DHS program contract manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHS Funds) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager.

- (2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or miscellaneous property to the DHS program contract manager using a form or format designated by DHS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHS-Funded Equipment) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to DHS according to the instructions appearing on the inventory form or issued by the DHS program contract manager.
- (c) Contact the DHS program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by DHS' Asset Management Unit.

- b. Title to state equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, DHS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or miscellaneous property.
- d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or miscellaneous property.
  - (1) In administering this provision, DHS may require the Contractor and/or Subcontractor to repair or replace, to DHS' satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHS program contract manager.
- e. Unless otherwise stipulated by the program funding this agreement, equipment and/or miscellaneous property purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, shall only be used for performance of this agreement or another DHS agreement.
- f. Within sixty (60) calendar days prior to the termination or end of this agreement, the Contractor shall provide a final inventory report of equipment and/or miscellaneous property to the DHS program contract manager and shall, at that time, query DHS as to the requirements, including the manner and method, of returning state equipment and/or miscellaneous property to DHS. Final disposition of equipment and/or miscellaneous property shall be at DHS expense and according to DHS instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by DHS immediately after receipt of the final inventory report. At the termination or conclusion of this agreement, DHS may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different DHS agreement.
- g. **Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under this agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, within thirty (30) calendar days prior to the termination or end of this agreement, the Contractor and/or Subcontractor shall return such vehicles to DHS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile

liability insurance is in effect during the term of this agreement or any period of contract extension during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

#### **Automobile Liability Insurance**

- (a) The Contractor, by signing this agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHS program contract manager.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this agreement or until such time as the motor vehicle is returned to DHS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.
  - [3] The insurance carrier shall notify the State of California Department of Health Services, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHS, in writing, if this provision is applicable to this agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHS may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

#### **5. Subcontract Requirements**

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
- (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
- (2) The State may identify the information needed to fulfill this requirement.
- (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
- (a) A local governmental entity or the federal government,
  - (b) A State college or university from any State,
  - (c) A Joint Powers Authority,
  - (d) An auxiliary organization of a California State University or a California community college,
  - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
  - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
  - (g) Entities of any type that will provide subvention aid or direct services to the public,
  - (h) Entities and/or service types identified as exempt from advertising in State Administrative Manual Section 1233 subsection 3. View this publication at the following Internet address: <http://sam.dgs.ca.gov>.
- b. DHS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this agreement.
- (1) Upon receipt of a written notice from DHS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHS. DHS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this agreement and shall, upon request by DHS, make copies available for approval, inspection, or audit.
- e. DHS assumes no responsibility for the payment of subcontractors used in the performance of the agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this agreement.
- f. The Contractor is responsible for all performance requirements under this agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHS to the Contractor, to permit DHS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to

allow interviews of any employees who might reasonably have information related to such records."

- i. Unless otherwise stipulated in writing by DHS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, and 32.

## 6. Income Restrictions

Unless otherwise stipulated in this agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this agreement shall be paid by the Contractor to DHS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHS under this agreement.

## 7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this agreement, or by subparagraphs (1) or (2) below.
  - (1) If this agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.

- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this agreement, reduce its accounts, books and records related to this agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

## **8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this agreement. In addition, this agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this agreement shall be amended to reflect any reduction in funds.
- d. DHS has the option to invalidate or cancel the agreement with 30-days advance written notice or to amend the agreement to reflect any reduction in funds.

## **10. Intellectual Property Rights**

### **a. Ownership**

- (1) Except where DHS has agreed in a signed writing to accept a license, DHS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement.
- (2) For the purposes of this agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this agreement. In addition, under this agreement, Contractor may access and utilize certain of DHS' Intellectual Property in existence prior to the effective date of this agreement. Except as otherwise set forth herein, Contractor shall not use any of DHS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHS. **Except as otherwise set forth herein, neither the Contractor nor DHS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHS in establishing or maintaining DHS' exclusive rights in the Intellectual Property, and in assuring DHS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this agreement, Contractor shall require the terms of the agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHS and which result directly or indirectly from this agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHS' Intellectual Property rights and interests.

**b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this agreement. Contractor hereby grants to DHS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.



**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Section a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement, shall include DHS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2004, etc.], State of California, Department of Health Services. This material may not be reproduced or disseminated without prior written permission from the Department of Health Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this agreement, which did not result from research and development specifically included in the agreement's scope of work, Contractor hereby grants to DHS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the agreement's scope of work, then Contractor agrees to assign to DHS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHS' prior written approval; and (ii) granting to or obtaining for DHS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this agreement. If such a license upon the these terms is unattainable, and DHS determines that the Intellectual Property should be included in or is required for Contractor's performance of this agreement, Contractor shall obtain a license under terms acceptable to DHS.

**f. Warranties**

- (1) Contractor represents and warrants that:
  - (a) It is free to enter into and fully perform this agreement.
  - (b) It has secured and will secure all rights and licenses necessary for its performance of this agreement.
  - (c) Neither Contractor's performance of this agreement, nor the exercise by either Party of the rights granted in this agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution,

and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHS in this agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this agreement.
- (2) DHS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this agreement. DHS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHS.
- (2) Should any Intellectual Property licensed by the Contractor to DHS under this agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHS' right to use the licensed Intellectual Property in accordance with this agreement at no expense to DHS. DHS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or

action. In the defense or settlement of the claim, Contractor may obtain the right for DHS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHS shall be entitled to a refund of all monies paid under this agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

- (3) Contractor agrees that damages alone would be inadequate to compensate DHS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHS would suffer irreparable harm in the event of such breach and agrees DHS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

#### **i. Survival**

The provisions set forth herein shall survive any termination or expiration of this agreement or any project schedule.

### **11. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

### **12. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this contract and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

**13. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHS program contract manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this agreement or authorized by the client, any such identifying information to anyone other than DHS without prior written authorization from the DHS program contract manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**14. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contract communications) prepared as a requirement of this agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

**15. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHS program contract manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. Should the Contractor disagree with the Branch Chief's decision, the Contractor may appeal to the second level.
  - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is

organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated in writing by DHS, all dispute, grievance and/or appeal correspondence shall be directed to the DHS program contract manager.
- e. There are organizational differences within DHS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHS program contract manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

#### 16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, grants, or subventions to other governmental agencies or units of government nor contracts with regional centers or area agencies on aging (H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
  - (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the

ninth month following the end of the audit period. The requirements of this provision apply if:

- (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
  - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- (4) If the Contractor submits to DHS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHS program funding this agreement. The audit report must identify the Contractor's legal name and the number assigned to this agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHS program contract manager shall forward the audit report to DHS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
  - e. The cost of the audits described herein may be included in the funding for this agreement up to the proportionate amount this agreement represents of the Contractor's total revenue. The DHS program funding this agreement must provide advance written approval of the specific amount allowed for said audit expenses.
  - f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
  - g. Nothing in this agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
  - h. Nothing in this provision limits the authority of the State to make audits of this agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
  - i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
  - j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
  - k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

**17. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this agreement, Contractor agrees that if any performance under this agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

**18. Novation Requirements**

If the Contractor proposes any novation agreement, DHS shall act upon the proposal within 60 days after receipt of the written proposal. DHS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHS will initiate an amendment to this agreement to formally implement the approved proposal.

**19. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
  - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHS program funding this contract.

- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHS may terminate this agreement for cause or default.

## 20. Smoke-Free Workplace Certification

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

## 21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHS shall have the right to annul this agreement without liability or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

## 22. Payment Withholds

(Applicable only if a final report is required by this agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this contract, DHS may, at its discretion, withhold 10 percent (10%) of the face amount of the agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHS receives a final report that meets the terms, conditions and/or scope of work requirements of this agreement.



**23. Performance Evaluation**

(Not applicable to grant agreements.)

DHS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHS. Negative performance evaluations may be considered by DHS prior to making future contract awards.

**24. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this agreement if made with a corporation for its general benefits.

**25. Four-Digit Date Compliance**

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**26. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**27. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

**28. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

**29. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to this agreement. Furthermore, Grantee, by signing this agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

**30. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

- d. To be an allowable fringe benefit, the cost must meet the following criteria:
- (1) Be necessary and reasonable for the performance of the agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
  - (2) For multiple year contracts, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the agreement. Holidays cannot be carried over from one contract year to the next. See Provision f (3)(b) for an example.
  - (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.
- (a) **Example No. 1:**
- If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a contract period of one year. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of the agreement, the Contractor during a one-year agreement term may only claim up to three weeks of vacation and twelve days of sick leave actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the agreement are not an allowable cost.
- (b) **Example No. 2:**
- If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).
- (c) **Example No. 3:**
- If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**31. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded contracts in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract or grant or any extension or amendment of that contract or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
  - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHS program contract manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

## Attachment 1

STATE OF CALIFORNIA  
DEPARTMENT OF HEALTH SERVICES

## CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Name of Contractor

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Printed Name of Person Signing for Contractor

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Contract / Grant Number

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Signature of Person Signing for Contractor

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Date

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Title

After execution by or on behalf of Contractor, please return to:

Department of Health Services  
(Name of the DHS program providing the funds)  
(Program's Street Address, Room Number, and MS Code)  
P.O. Box 997413  
Sacramento, CA 95899-7413

## Attachment 2

**CERTIFICATION REGARDING LOBBYING**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

Approved by OMB  
0348-0046

<b>1. Type of Federal Action:</b> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing b. material change For Material Change Only:  Year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b>  <div style="display: flex; justify-content: space-between;"> <span>Prime</span> <span>Subawardee</span> </div> Tier _____, if known:  Congressional District, If known:		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, If known:
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CDFA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>	
<b>10. a. Name and Address of Lobbying Entity</b> (If individual, last name, first name, MI):  <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, If necessary)</div>		<b>b. Name and Address of Lobbying Entity</b> (If individual, last name, first name, MI):  <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, If necessary)</div>
<b>11. Amount of Payment (check all that apply):</b> \$ _____ actual _____ planned _____	<b>13. Type of Payment (check all that apply):</b> a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other, specify: _____	
<b>12. Form of Payment (check all that apply):</b> a. cash b. in-kind, specify: Nature _____ Value _____		
<b>14. Brief Description of Services Performed or to be Performed and Dates(s) of Service, including Officer(s), Employee(s), or Member(s) Contracted for Payment indicated in item 11:</b>   <div style="text-align: center;">(Attach Continuation Sheet(s) SF-LLL-A, If necessary)</div>		
<b>15. Continuation Sheet(s) SF-LLL-A Attached:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>		
<b>16. Information requested through this form is authorized by Title 31, U.S.C., Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to Title 31, U.S.C., Section 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$19,000 and not more than \$100,000 for each such failure.</b>		Signature: _____  Print Name: _____  Title: _____  Telephone No.: _____ Date: _____
<b>Federal Use Only</b>		Authorized for Local Reproduction Standard Form-LLL

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipients at the initiation or receipt of a covered federal action, or a material change to a previous filing, pursuant to Title 31, U.S.C., Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered federal action. Use the SF - LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and ZIP code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1<sup>st</sup> tier. Subawards include but are not limited to subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, state, and ZIP code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CDFA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract grant, or loan award number; the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90401."
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state, and ZIP code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
10. (b) Enter the full names of the individual(s) performing services and include full address if different from 10.(a). Enter last name, first name, and middle initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials, identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Management and Budget, Paperwork Reduction Project, (0348-0046), Washington, DC 20503.

**Exhibit E**  
Additional Provisions

**1. Additional Incorporated Exhibits**

The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. These documents may be updated periodically by DHS, as required by program directives. DHS shall provide the Contractor with copies of said documents and any periodic updates thereto, under separate cover. DHS will maintain on file, all documents referenced herein and any subsequent updates.

- 1) Health Administrative Manual (HAM) Sections 6-1000

**2. Contract Amendments**

Should either party, during the term of this agreement, desire a change or amendment to the terms of this agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by the State.

**3. Cancellation / Termination**

- A. This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
- B. Upon receipt of a notice of termination or cancellation from DHS, Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
- C. Contractor shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.

**4. Dispute Resolution Process**

- A. This provision replaces and supersedes provision 15 of Exhibit D(F).
- B. If a dispute arises between the Contractor and DHS, the Contractor must seek resolution using the process outlined below.
  - 1) The Contractor should first informally discuss the problem with the DHS program contract manager. If the problem cannot be resolved informally, the Contractor must direct the grievance together with any evidence, in writing, to the program Branch Chief. The grievance must state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief must render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. Should the



**Exhibit E**  
**Additional Provisions**

Contractor disagree with the Branch Chief's decision, the Contractor may appeal to the second level.

- 2) When appealing to the second level the Contractor must prepare an appeal indicating the reasons for disagreement with the Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal. The decision rendered by the Deputy Director or his/her designee shall be the final administrative determination of the Department.
- 3) Unless otherwise stipulated in writing by DHS, all dispute, grievance and/or appeal correspondence shall be directed to the DHS program contract manager.
- 4) There are organizational differences within DHS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHS program contract manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

**5. Performance Evaluation**

- A. This provision replaces and supercedes provision 23 of Exhibit D(F).
- B. The Contractor's performance under this agreement shall be evaluated at the conclusion of the term of this agreement. The evaluation shall include, but not be limited to:
  - 1) Whether the contracted work or services were completed as specified in the agreement, and reasons for and amount of any cost overruns.
  - 2) Whether the contracted work or services met the quality standards specified in the agreement.
  - 3) Whether the Contractor fulfilled all requirements of the agreement.
  - 4) Factors outside the control of the Contractor, which caused difficulties in contractor performance. Factors outside the control of the Contractor shall not include a Subcontractor's poor performance.
- C. The evaluation of the Contractor shall not be a public record.

**Exhibit E**  
**Additional Provisions**

**6. Progress Reports or Meetings**

- A. Contractor shall submit progress reports or attend meetings with state personnel at intervals determined by DHS to determine if the Contractor is on the right track, whether the project is on schedule, provide communication of interim findings, and afford occasions for airing difficulties or special problems encountered so that remedies can be developed quickly.
- B. At the conclusion of this agreement and if applicable, Contractor shall hold a final meeting at which Contractor shall present any findings, conclusions, and recommendations. If required by this agreement, Contractor shall submit a comprehensive final report.

**7. Avoidance of Conflicts of Interest by Contractor**

- A. DHS intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers and directors of the Contractor or subcontractors. Thus, DHS reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to DHS review and prior approval.
- B. Conflicts of interest include, but are not limited to:
  - 1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the contract.
  - 2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.
- C. If DHS is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by DHS to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by DHS and cannot be resolved to the satisfaction of DHS, the conflict will be grounds for terminating the contract. DHS may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.

**8. Prohibited Follow-on Contracts**

- A. No person, firm, or subsidiary thereof who has been awarded a consulting services agreement may submit a bid for, nor be awarded an agreement for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services agreement.

**Exhibit E**  
Additional Provisions

- B. Paragraph A does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services agreement which totals no more than 10 percent of the total monetary value of the consulting services agreement.
- C. Paragraphs A and B do not apply to consulting services agreements subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

**9. Contract Extension**

DHS shall retain the exclusive right to exercise the option to extend the term of the contract during the last twelve months of the contract, as determined by the original end date or by a new end date if an extension has been executed. DHS may invoke up to two separate extensions of one-year each. The Contractor shall be given at least 90 days prior written notice should DHS choose to exercise this option and extend the contract.

**Exhibit F**  
**Resumes**

**Master Resume Listing**

<b><u>Consultant</u></b>	<b><u>Consultant Level</u></b>	<b><u>Number of Pages</u></b>
Kevin D. Harris	One	9
Marna L. Hammer	Two	3
Daniel J. Zielinski	Two	2
Kirsten Martens	Four	1

Exhibit F  
Resumes

**Kevin D. Harris**  
**Consultant Level One**

Kevin D. Harris  
Managing Director

Navigant Consulting  
1201 Third Avenue, Suite 3320  
Seattle, WA 98101  
Tel: 206.292-2387  
Fax: 206.622.2787

**Professional History**

- Managing Director, Navigant Consulting
- Vice President, Tucker Alan Inc.
- Executive Consultant, Peterson Consulting Limited Partnership
- Staff Accountant, Arthur Andersen & Co.
- Sales & Service Manager, M/D Systems

**Education**

- B.S., Managerial Economics, University of California, Davis
- M.B.A., Finance, California State University, San Francisco
- Certified Management Accountant
- Certified Mediator (Washington State)

**Professional Associations**

- Institute of Management Accountants
- American Association of Public Welfare Attorneys
- Washington Bar Association – Healthcare and Alternative Dispute Resolution Sections
- American Health Lawyers Association
- American Association of Health Plans
- National Association of Medicaid in Education

Mr. Harris has more than twenty years of experience working with healthcare payers, providers and managed care organizations nationwide. Mr. Harris works extensively developing, implementing and evaluating public payer reimbursement systems and Medicaid policy, enhancing federal participation in Medicaid programs and evaluating compliance with federal and state regulations. He provides expert witness testimony and litigation support services to a variety of public payers and other groups.

**Professional Experience**

**Hospital Reimbursement and Cost Experience**

Mr. Harris provided the State of California with analysis and recommendations related to hospital outpatient reimbursement relative to the Medi-Cal program. Work included extensive claims and cost report analysis, field work with state auditors and intensive review with hospital administrators and support staff. Additional work included inpatient and outpatient operational and financial analysis, cost allocation analysis, economic trend analysis and access to care compliance.

Mr. Harris developed and/or provided expert testimony and litigation support services related to Medicaid hospital inpatient/outpatient benefits to the States of Oregon, Washington, California, Michigan, Missouri and Pennsylvania.

Mr. Harris directed a multi-year project for the State of California to evaluate provider submission requirements for Medi-Cal hospital outpatient billing, as well as cost reporting standards and requirements. His work included evaluation of existing submission standards, state auditing methods and practices, fiscal intermediary programming and edit functions, and other germane tasks.

**Exhibit F**  
**Resumes**

**Kevin D. Harris**

Mr. Harris directed the preparation of cost models for five states' Attorneys General and outside counsel related to the national tobacco litigation (Washington, Oregon, Hawaii, Arizona and California). Work included analyzing hospital inpatient, outpatient and other reimbursement methodologies, and developing appropriate paid claims conversion and analysis techniques that supported epidemiological and economic expert testimony related to smoking attributable costs. Analysis included evaluation of clinical diagnoses and related costs.

Mr. Harris has developed numerous inpatient and outpatient studies and analyses related to rate development, utilization, financial condition, bed supply, access, disproportionate share and upper payment limitations in numerous states including Oregon, California, Pennsylvania, Washington, Texas, Illinois and Michigan. These projects include participation in formal work groups that include state officials, unions, providers, associations and various advocacy and special-interest groups.

Mr. Harris directed numerous findings and analyses for the State of California, related to hospital-based distinct part subacute and nursing facility services. Work included operational and financial analysis, identification of provider efficiency characteristics, industry analysis and peer grouped cost comparisons.

Mr. Harris directed an a(30)A evaluation of hospital outpatient Medicaid reimbursement methodology and provider costs for the State of Nebraska. Work included analysis of reimbursement, cost allocation and evaluation of access compliance.

Mr. Harris directed an analysis of hospital disproportionate share eligibility and payment methodology for the State of California, including developing materials and negotiations with CMS related to certified expenditure programs.

Mr. Harris directed two engagements for the State of California related to "dual eligibles" Part A and B hospital reimbursement. Work included Medicare rate and cost analysis, as well as research into the legislative intent of qualified Medicare beneficiary definitions, payer of "last resort" definitions and legal precedents.

Mr. Harris directed an engagement for a combination of hospitals in the San Antonio metropolitan area (Bexar County, Baptist and Santa Rosa hospitals) related to Medicaid bidding for selective contract hospital services to the State of Texas. Work included identification of disparate hospital operations and costs, and recommendations for a team proposal to bid for Medicaid services.

## Exhibit F Resumes

### Kevin D. Harris

#### Home Health Reimbursement and Cost Analysis

Mr. Harris assisted the State of Ohio with a Medicaid rate, cost and access evaluation of home health agency services. Trend analysis was developed, resulting in recommendations made to the state regarding reimbursement methodology.

Mr. Harris directed a Home Health Agency rate and access study for the State of California. Work included several months of extensive industry interviewing, including related state officials, industry association executives, beneficiaries, clinicians, fiscal intermediaries, and home health agencies. A final report was delivered that evaluated study findings within the context of a(30)A access requirements, with additional respect given to the numerous and competing ownership types of home health agencies. Geographic areas with potential weak access were noted, and appropriate recommendations made to the State.

Mr. Harris developed and/or provided expert testimony and litigation support services related to Medicaid home health agency benefits to the States of Ohio and California.

#### Long-Term Care Policy, Reimbursement and Cost Experience

Mr. Harris developed, implemented and evaluated free-standing and hospital-based nursing facility findings and analyses in Pennsylvania, Oregon, Illinois, Michigan, Ohio, California and Washington. Most findings analyses were developed within the context of legislative mandates, in an effort to comply with federal requirements. Work included cost, rate and access analysis, evaluation of efficiency and economy factors, industry trend analysis, and case mix evaluation.

Mr. Harris developed expert analysis and opinion related to numerous Americans with Disabilities Act litigations. His testimony and/or analysis in California and Washington included opinions regarding services provided under mandate to developmentally disabled populations, community based services provided under state waiver programs, community based labor studies, and institutional services provided in free standing and hospital-based nursing facilities, residential care and ICF-MR facilities. He evaluated economic theory and statistical analysis of plaintiff expert opinion, and provided rebuttal testimony.

Mr. Harris assisted the State of California with the development of a modeled long-term care trend factor, which is used each year to inflate the lag time between cost report submission and the rate year. Work included collection and analysis of long-term care labor report data, application of statistical smoothing techniques to moving averages, and final recommendations of trend factors. The model is still in use, to assist in the determination of nursing facility rates in California.

**Exhibit F**  
**Resumes**

**Kevin D. Harris**

Mr. Harris is currently assisting California with the development of a facility-specific rate reimbursement methodology for free-standing and distinct-part nursing facilities. As Project Director, is leading a team of consultants in a multi-year project that includes working extensively with state policy and operations personnel, audit officials, union representatives, state nursing home associations, the state hospital association and numerous advocacy groups.

Mr. Harris assisted numerous states with the development and evaluation of a variety of institutional and home- and community-based methodologies, including Intermediate Care Facilities for the Mentally Retarded, Developmentally Disabled large and small bed facilities, subacute care, residential care facilities, community care facilities and others. Work included waiver development and analysis, operational and financial analysis, labor rate and turnover evaluation, access studies and others.

Mr. Harris developed and/or provided expert testimony and litigation support services related to Medicaid long term care benefits to the States of Washington, Ohio, Oregon, California, Pennsylvania, Michigan, Florida and Illinois.

**Local Educational Agency Reimbursement Experience**

Mr. Harris is currently directing a team of consultants assisting California with the evaluation of reimbursement methodology related to school-based health services. This multi-year project includes development of new rates for planning, assessment and treatment services provided to special education children in over 1,000 school districts and county offices of education statewide. As Project Director, Mr. Harris is overseeing a multiple-staged effort that includes development and implementation of cost and time surveys, extensive field work, meeting and presentations to an ad-hoc workgroup, and evaluation of school district accounting, financial and operational issues and concerns. He has developed state plan amendments to expand benefits to school-based children. Mr. Harris has negotiated on a routine basis with CMS regarding eligibility, benefits, utilization and rate development. In addition, he has directed the development and implementation of provider training and third party liability studies.

Mr. Harris conducted a review with recommendations for Nebraska's school-based administrative claiming guide. He evaluated the latest federal requirements and made recommendations based on current federal oversight and Office of Inspector General audits conducted nationwide. Mr. Harris worked with Department of Social Services officials to draft new guide language.



## Exhibit F Resumes

### Kevin D. Harris

#### Other Related Experience

Mr. Harris directed an industry evaluation of Medicaid pharmaceutical reimbursement for anti-hemophilic factor products in the State of California. Extensive industry interviewing included state policy officials and pharmacists, officials from the Genetically Handicapped Persons Program, the California Children's Services Program, hemophilic treatment center directors and hematologists, advocacy groups, hemophilic association chapters, beneficiaries, factor manufacturers, home care companies, wholesalers and federal hemophilic region directors. Work culminated in an extensive study that outlined the economics of the industry, including distribution channels, wholesale and retail costs, medical practice patterns and clinical treatments, access to care and product and other issues. Final recommendations were made to the Department of Health Services regarding changes to the rate reimbursement methodology. Mr. Harris assisted in drafting a rate regulation package, including conducting public hearings.

Mr. Harris directed a Personal Care Services rate and access study for the State of California which included interviewing Department of Social Services officials, union officials, county program executives and social workers, beneficiaries, and home care companies. Mr. Harris developed an extensive report outlining the industry economics, care requirements and analysis outcomes from converted claims and assessment data, and made recommendations for changes to the current rate reimbursement methodology, as well as reporting standards.

Mr. Harris developed and/or provided expert testimony and litigation support related to EPSDT services, home and community based services, dental services, services provided to persons with developmental disabilities and other eligible populations and benefits in numerous states.

Mr. Harris directed a medical transportation rate and access study related to Medi-Cal air ambulance benefits in California. Industry analysis included extensive interviewing and directing state auditors to complete special reviews related to provider costs. Geographic regions of California were evaluated, and recommendations in a report were made regarding potential access issues.

Mr. Harris directed an information technology effort for the State of California that converted claims-based data from the fiscal intermediary into a server-based dataset designed to calculate Relative Value Units for physician rate reimbursement. Programming included a menu-driven system, with front-end screens designed to minimize training time of inexperienced state analysts.

Exhibit F  
Resumes

**Kevin D. Harris**

**Managed Care Program Design and Implementation**

Mr. Harris provided the State of California with analysis of the HMO auto-assignment mechanism of Medi-Cal managed care beneficiaries, under the "Two-Plan" model. Work included analysis of managed care enrollment data and reports and comparison of peers and industry standards.

Mr. Harris assisted the State of Colorado with analysis and review related to the actuarial soundness of capitation rates developed for Medicaid HMOs. He provided expert testimony related to a challenge brought by a significant Medicaid HMO.

Mr. Harris assisted the States of Kansas and Nebraska with the development and implementation of 1115 and 1915(b) waiver programs for Medicaid AFDC populations. Work included drafting of waiver language, encounter data specifications, requests for proposal, primary care case management policy, provider incentive payment policy, identification of Medicaid management information systems changes, and development of fee-for-service population equivalent cost datasets.

Mr. Harris assisted the State of Nebraska with drafting an actuarial firm request for proposal, for the purpose of developing capitation rates for managed care program implementation in three counties. He drafted evaluation standards and scoring techniques, and participated on the state evaluation team.

Mr. Harris directed an engagement to draft a bid proposal on behalf of Prime HMO, a "start-up" HMO for Medicaid managed care services in the State of Nevada. Mr. Harris worked with HMO executives to develop organizational staffing, quality assurance plans, network contracts with specialists, pharmacies and FQHCs, utilization review policy, financial solvency requirements, management information systems and encounter data specifications that would comply with Medicaid requirements. He worked with external actuaries to appropriately cost and project internal financial estimates related to participation in the Medicaid program.

Mr. Harris directed a study for the California Department of Health Services' Fiscal Forecasting Branch related to the development of a Medi-Cal managed care trend factor. Work included a full review of both the existing methodology, as well as the source data used to design a trend factor to update fee-for-service equivalent data in the "Two-Plan" model. A report was submitted with recommendations to improve both the methodology and data application.

Mr. Harris developed new HCFA enrollment reporting prototypes for the State of California's Medi-Cal managed care programs. Reporting formats were designed based on the data production capabilities of the state's enrollment contractor. HCFA had threatened to withhold matching funds until California reached reporting compliance. Once the prototypes were implemented, HCFA subsequently released the prior restrictions.

## Exhibit F Resumes

### Kevin D. Harris

Mr. Harris directed managed care review projects for numerous states within the litigation support and damage model preparation context of the national tobacco litigation. He extensively analyzed enrollment and capitation data, rate reimbursement methodology, available encounter data, and MCO experience data for the following states and programs, often working with external actuaries:

- » Washington – Basic Health Plan; State Employees Health Plan
- » Oregon – Oregon Health Plan
- » Hawaii – MedQuest; Quest Plus; Public Employees Health Fund
- » Texas – Managed Care Pilot Projects
- » Arizona – AHCCCS and ALTCS programs; Saguaro Program
- » California – Two-Plan Model; Geographic Managed Care; PHP Model; County Operated Health Systems Model.

Mr. Harris produced pricing and costing analyses from shadow claims, enrollment and experience data related to the above programs, segregated by age, sex, and extrapolated diagnostic coding, in order to apply smoking-attributable factors to impute smoking-related costs.

#### Operations and Performance Reviews

Mr. Harris directed an evaluation of California's current methods for collecting, analyzing and reporting hospital inpatient disproportionate share eligibility and payments. He implemented new data extraction, conversion and analysis routines to streamline compliance with OBRA '93 and OBRA '97 requirements related to DSH funding.

Mr. Harris developed a reimbursement and collections model for a large Southern California radiology group to evaluate the performance of their medical billing corporation. He produced a report detailing the amount of money foregone due to billing errors and alleged incompetence. The work included re-pricing Medicare, Medi-Cal, contract and indemnity claims, and analyzing the billing service's prior collection rates to recast expected collections, compared to actual performance.

#### Reform Initiatives

Mr. Harris participated in a legislative-based Medicaid reform/eligibility committee in the State of Idaho. He provided Medicaid consulting expertise in the areas of federal matching rates, special needs populations, de-linking between welfare reform and Medicaid eligibility and other related issues.

## Exhibit F Resumes

### Kevin D. Harris

#### Evaluation of Information Technology

Mr. Harris directed numerous engagements involving extraction, conversion and analysis of paid and other status claims, cost report, disclosure report, financial statements, encounter-based, hospital discharge annual report and other data that comprise extensive and complex datasets. He is experienced in leading information technology professionals in the development of practical and efficient data subsets, on server platforms. His experience includes directing analysis using appropriate database and statistical software applications, including SQL-Server, FOCUS, SPSS, Foxpro and Access.

Mr. Harris directed the conversion of hundreds of physician practices and clinics from manual "pegboard"-based accounting and billing systems to batch-based and "stand-alone" computerized systems, including implementation of Medicare and Medicaid electronic claims submission.

#### Other Relevant Medicaid and Healthcare Experience

Mr. Harris provides expert testimony in litigation and arbitration related to a wide variety of Medicaid and healthcare issues in federal and state courts, as well as in administrative and legislative hearings.

Mr. Harris assists states with the development and implementation of regulations and State Plan Amendments, fiscal impact analyses, provider training and manuals, and other related operations.

Mr. Harris assists states with CMS negotiations related to federal waivers, upper payment limitations, disproportionate share issues, certified expenditures programs and numerous state plan amendment issues.

Mr. Harris has provided training seminars to HMO executives in the areas of Medicaid managed care contracting, actuarial rate development and related legal issues.

Exhibit F  
Resumes

**Kevin D. Harris**

**Selected Speaking Engagements**

Mr. Harris has presented at numerous conferences including:


- » "APHSA Fall Conference 2004" – American Association of Public Welfare Attorneys, Boulder Colorado (September, 2004)
- » "APHSA Fall Conference 2002" – American Association of Public Welfare Attorneys, Philadelphia, Pennsylvania (November, 2002)
- » "AAPWA Fall Conference 2001" – American Association of Public Welfare Attorneys, Chicago, Illinois (October, 2001)
- » "AAPWA Fall Conference 1999" – American Association of Public Welfare Attorneys, Newport, Rhode Island (November, 1999)
- » "Child and Maternal Care Policy Workshop" – Association of State and Territorial Health Officials, Alexandria (Summer, 1997)
- » "Capitation and Rate Setting for Managed Care" – Multiple training conferences, Charlotte and Chicago (Summer, 1996)
- » "Managed Care Conference" – New York Bar Association, Albany (Spring, 1996)
- » "Medicaid Risk Contracting" – Global Business Research Ltd., Orlando and Boston (Spring, 1995)

Exhibit F  
Resumes

**Marna L. Hammer**  
**Consultant Level Two**

Marna L. Hammer  
Associate Director

Navigant Consulting  
1201 Third Avenue, Suite 3320  
Seattle, WA 98101  
Tel: 206.292.2596  
Fax: 206.622.2787



**Professional History**

- Associate Director, Navigant Consulting
- Manager, Tucker Alan Inc.

**Education**

- Certified Public Accountant Certificate, State of Washington (Inactive)
- B.A., Accounting, University of Puget Sound

**Professional Associations**

- American Institute of Certified Public Accountants
- Washington State Society of Certified Public Accountants

Marna Hammer is an Associate Director with Navigant Consulting in the Seattle, Washington office. She is an experienced consultant in Medicaid reimbursement rate litigation, access studies, and methodology evaluation and design for a broad variety of services including: residential and non-residential home and community-based services, skilled nursing facilities, intermediate care facilities, hospital-based nursing facilities, school-based healthcare, hospital outpatient, and personal care services.

Prior to joining Navigant Consulting, Ms. Hammer was a Manager for TUCKER ALAN INC. where she managed a team of professionals on a variety of engagements for state Medicaid agencies. At TUCKER ALAN, Ms. Hammer gained experience in both litigation support and policy development, including methodology design and evaluation of access to care.

**Professional Experience**

Ms. Hammer has extensive experience evaluating Medicaid methodologies, reimbursement rates, and access to care. She is experienced in managing the development of financial and operational analyses using cost report data, paid claims information, utilization reports, and financial statements. In addition, she has conducted numerous interviews involving other state Medicaid agency personnel, providers, provider associations, and other healthcare-related stakeholder groups. Marna is experienced in reviewing and modifying provider submission requirements and cost reporting standards, evaluating audit work programs for various provider types, and formulating technical recommendations regarding auditing procedures.

Exhibit F  
Resumes

**Marna L. Hammer**

- » Ms. Hammer is the Project Manager of an evaluation of the State of California's long-term care Medicaid reimbursement methodology. Responsible for extensive interviewing of Medicaid agency personnel in comparative states, meetings with various stakeholder groups, data analysis, literature research, analysis of national and State quality of care initiatives, and evaluation of capital reimbursement options. She is assisting with evaluation of proposals from stakeholder groups, estimation of fiscal impact under various scenarios, formal notification of selected reimbursement methodology, public hearing work, preparation of the State Plan Amendment, response to CMS and provider inquiries, and provision of technical assistance.
- » Ms. Hammer is currently assisting a state Medicaid agency in a litigation dispute regarding wages and benefits paid to community-based direct care workers of developmentally disabled persons. As project manager, Ms. Hammer is leading an economic labor study to identify wages paid to community-based staff in comparison to wages paid to workers with similar qualifications and experience in the general healthcare market. Other tasks will include identifying wages and benefits paid to institutional workers, analyzing assessment data to evaluate differences in community-based and institutional consumer populations, and reviewing beneficiary utilization over time.
- » Ms. Hammer is assisting in an evaluation to enhance California Medicaid services provided by local educational agencies and access by students to these services. Work includes evaluation and development of reimbursement rates for school-based health services, identification of potential new services to expand the program, review of other states' Medicaid-covered health services and reimbursement methodologies, identification of barriers to reimbursement, researching federal and State regulations relating to the provision of Medicaid health services provided by local educational agencies, and participating in provider training sessions.
- » Ms. Hammer managed a litigation project regarding access to community-based services for persons with developmental disabilities in California. The project required an extensive review of California's model for serving developmentally disabled individuals, including an understanding of California's 21 Regional Centers that are responsible for daily program operation. Primary tasks included managing an economic labor study regarding the appropriateness of wages and benefits paid to direct care staff in community-based settings, identifying and analyzing wages and benefits for comparative job classifications, evaluating the current 1915(c) waiver program, and analyzing access to home and community-based services. Database work included analysis of provider costs and reimbursements to assess adequacy of reimbursement rates, as well as evaluation of beneficiary utilization over time.

**Exhibit F**  
**Resumes**

**Marna L. Hammer**

- » Ms. Hammer assisted the State of Maine in a litigation dispute concerning in-home support services for mentally ill and developmentally disabled children. She managed analysis of Medicaid paid claims data in SQL server, evaluation of commercial insurance benefits available to the general population, working with clinical experts to determine the appropriateness of type and frequency of services, deposition preparation, and litigation support.
- » Ms. Hammer analyzed the adequacy of the Medicaid fee-for-service rate paid to hospital-based nursing facilities in connection with a large litigation matter for the State of California.
- » Ms. Hammer reviewed hospital outpatient provider billing procedures, cost report submission requirements and standards, and auditing procedures for the State of California. She conducted a multi-state survey regarding reimbursement methodology policies and procedures.
- » Ms. Hammer assisted in a study of personal care services for the State of California to determine if rates paid to providers were adequate and program access was unimpeded for Medicaid recipients. The project included analysis of historical program trends, review of independent economic wage data, development and completion of a state survey on personal assistance services, and interviewing program stakeholders.



Exhibit F  
Resumes

**Daniel J. Zielinski**  
**Consultant Level Two**

Dan Zielinski  
Managing Consultant

Navigant Consulting  
175 W. Jackson Boulevard  
Suite500  
Chicago, IL 60604  
Tel 312.583.5870  
Fax 312.583.6960

dzielinski@navigantconsulting.com

**Education and professional**

- Bachelor of Science degree in Operations Management and Information Systems in May 1995 from Northern Illinois University

**Employment:**

- United Stationers Supply Co.
- Navigant Consulting

**Methodologies**

- Business Objects for Visual Basic
- Object-Oriented Analysis

Dan Zielinski is a Managing Consultant with the Healthcare group of Navigant Consulting, Inc in the Chicago, Illinois office. In this capacity, he has worked as a Software Architect, creating and designing applications to fit client needs. He has experience working directly with clients and formulating project timelines while managing a team of developers. His responsibilities include database design, code generation and time management. In addition to his technical skills, Dan has experience in Medicaid reimbursement rate methodology as well as analysis using cost report data provided by state agencies.

**Professional Experience**

Mr. Zielinski's experience has primarily been involved in application design, requiring the creation of functional specifications as well as design specifications based on client requirements.

His most recent engagement involves the State of California for which he wrote an application which helps generate facility specific reimbursement rates for freestanding nursing facilities. This project has involved, but is not limited to, standardizing imported data files, incorporating flexible rate methodology factors and report generation.

Mr. Zielinski has been involved with the daily operations for the London Data Centre. These responsibilities involve troubleshooting various issues brought forth by the client, database management within a test environment, application modification and enhancement along with general maintenance. Within this project he was also involved in the development and design of queued objects that were used to deliver compressed document files to their respective destinations using a COM + architecture.

Mr. Zielinski was part of a team responsible for creating an on-line billing web site. His major responsibilities included designing and writing the business objects that were required for creating and editing budgets and bills.

**Exhibit F**  
**Resumes**

**Daniel J. Zielinski**

Prior to joining Navigant Consulting, Dan worked for the largest wholesaler in the office products industry, United Stationers Supply Co. While at United Stationers, Dan held the position of Senior Programmer and was responsible for the support, implementation, and development of a carton tracking system for the Outbound Logistics Group. This project affected each distribution facility in the company and involved the installation of new hardware as well as software. The scope of the carton tracking system that Dan was involved with included data entry, report design, shipping label construction, legacy system modification and hardware infrastructure reconfiguration.

**Platforms**


- » **Operating Systems:** Windows 95, 98, NT, 2000, XP, DOS and Macintosh
- » **Development Environment:** Visual Basic 6.0, Visual Basic .Net, C #, Visual Studio .Net, Centura Team Developer, JavaScript, VBScript, and ASP.
- » **Databases:** Oracle, SQL Server, DB2, and MS Access
- » **Reporting:** Actuate, Crystal Reports
- » **Software:** MS Office, MS FrontPage2000, Visio 2000

Exhibit F  
Resumes

**Kirsten Martens**  
**Consultant Level Four**

Kirsten Martens  
Consultant

Navigant Consulting  
1201 Third Avenue, Suite 3320  
Seattle, WA 98101  
Tel: 206.292.2599  
Fax: 206.622.2787



**Professional History**

- Consultant, Navigant Consulting
- Research Assistant, Center on Reinventing Public Education
- Research Liaison, Multnomah County, OR

**Education**

- M.P.A., Evans School of Public Affairs, University of Washington
- B.A., History, Carleton College, Northfield, MN

**Honors and Fellowships**

- Fulbright Fellow, Bremen, Germany
- Member, Mortar Board National Honor Society

Kirsten Martens is a Consultant in the Seattle office. She completed her graduate studies at the Evans School of Public Affairs at the University of Washington. She graduated from Carleton College in Northfield, Minnesota with a B.A. in History. After college, she spent a year in Bremen, Germany on a Fulbright Fellowship.

Prior to joining Navigant Consulting, Ms. Martens worked as a Research Assistant for the Center on Reinventing Public Education. At the Center on Reinventing Public Education (CPRE), Ms. Martens analyzed the economic and social impact of performance based compensation structures in public schools. She also evaluated the relationship between teacher unions and student achievement.

**Professional Experience**

Kirsten has experience in healthcare engagements focusing on state government agency reimbursement.

- » Currently Ms. Martens is assisting in an evaluation to enhance reimbursement and access to California Medicaid school-based health services provided by local educational agencies (LEAs). Work includes analysis of Medicaid paid claims for school-based services, review of program expenditures over time, evaluation of service utilization, and analysis of the provider population. Ms. Martens is also assisting in the preparation of training materials for provider training sessions.

## Contractor's Release

### Instructions to Contractor:

With final invoice(s) submit one (1) original and one (1) copy. The original must bear the original signature of a person authorized to bind the Contractor. The additional copy may bear photocopied signatures.

### Submission of Final Invoice

Pursuant to contract number 06-55044 entered into between the State of California Department of Health Services (DHS) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) \_\_\_\_\_, in the amount(s) of \$ \_\_\_\_\_ and dated \_\_\_\_\_

If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

### Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

### Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment, will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

### Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies or products offered or used in the performance of the above referenced contract meets or exceeds the minimum percentage of recycled material, as defined in Public Contract Code Sections 12161 and 12200.

### Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by DHS or purchased with or reimbursed by contract funds)

Unless DHS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHS, at DHS's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

### Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): Navigant Consulting, Inc.

Signature of Contractor or Official Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name/Title of Person Signing: Kevin D. Harris, Managing Director

DHS Distribution:    Accounting (Original)    Program

## Travel Reimbursement Information

1. The following rate policy is to be applied for reimbursing the travel expenses of persons under contract. *The terms "contract" and/or "subcontract" have the same meaning as "grantee" and/or "subgrantee" where applicable.*
  - a. Reimbursement for travel and/or per diem shall be at the rates established for nonrepresented/excluded state employees. *Exceptions to DPA lodging rates may be approved by DHS upon the receipt of a statement on/with an invoice indicating that such rates are not available.*
  - b. Short Term Travel is defined as a 24-hour period, and less than 31 consecutive days, and is at least 50 miles from the main office, headquarters or primary residence. Starting time is whenever a contract or subcontract employee leaves his or her home or headquarters. "Headquarters" is defined as the place where the contracted personnel spends the largest portion of their working time and returns to upon the completion of assignments. *Headquarters may be individually established for each traveler and approved verbally by the program funding the agreement. Verbal approval shall be followed up in writing or email.*
  - c. Contractors on travel status for more than one 24-hour period and less than 31 consecutive days may claim a fractional part of a period of more than 24 hours. Consult the chart appearing on page 2 of this exhibit to determine the reimbursement allowance. All lodging must be receipted. If contractor does not present receipts, lodging will not be reimbursed.

## (1) Lodging (with receipts):

Travel Location / Area	Reimbursement Rate
Statewide (excluding the counties identified below)	\$ 84.00 plus tax
Counties of Los Angeles and San Diego	\$110.00 plus tax
Counties of Alameda, San Francisco, San Mateo, and Santa Clara.	\$140.00 plus tax

Reimbursement for actual lodging expenses exceeding the above amounts may be allowed with the advance approval of the Deputy Director of the Department of Health Service or his or her designee. Receipts are required. *Receipts from Internet lodging reservation services such as Priceline.com, which require prepayment to that service, ARE NOT ACCEPTABLE LODGING RECEIPTS and are not reimbursable without a valid lodging receipt from a lodging establishment.*

- (2) Meal/Supplemental Expenses (with or without receipts): With receipts, the contractor will be reimbursed actual amounts spent up to the maximum for each full 24-hour period of travel.

Meal / Expense	Reimbursement Rate
Breakfast	\$ 6.00
Lunch	\$ 10.00
Dinner	\$ 18.00
Incidental expenses	\$ 6.00

- d. Out-of-state travel may only be reimbursed if such travel is *necessitated by the scope or statement of work* and has been approved in advance by the program with which the contract is held. For out-of-state travel, contractors may be reimbursed actual lodging expenses, supported by a receipt, and may be reimbursed for meals and supplemental expenses for each 24-hour period computed at the rates listed in c. (2) above. For all out-of-state travel, contractors/subcontractors must have prior *DHS written or verbal approval. Verbal approval shall be confirmed in writing (email or memo).*
- e. In computing allowances for continuous periods of travel of less than 24 hours, consult the chart appearing on page 2 of this exhibit.
- f. No meal or lodging expenses will be reimbursed for any period of travel that occurs within normal working hours, unless expenses are incurred at least 50 miles from headquarters.

2. If any of the reimbursement rates stated herein are changed by the Department of Personnel Administration, no formal contract amendment will be required to incorporate the new rates. However, DHS shall inform the contractor, in writing, of the revised travel reimbursement rates.
3. For transportation expenses, the contractor must retain receipts for parking; taxi, airline, bus, or rail tickets; car rental; or any other travel receipts pertaining to each trip for attachment to an invoice as substantiation for reimbursement. Reimbursement may be requested for commercial carrier fares; private car mileage; parking fees; bridge tolls; taxi, bus, or streetcar fares; and auto rental fees when substantiated by a receipt.
4. **Note on use of autos:** If a contractor uses his or her car for transportation, the rate of pay will be 34 cents maximum per mile. If the contractor is a person with a disability who must operate a motor vehicle on official state business and who can operate only specially equipped or modified vehicles they may claim a rate of 37 cents per mile. If a contractor uses his or her car "in lieu of" airfare, the air coach fare will be the maximum paid by the State. The contractor must provide a cost comparison upon request by the state. Gasoline and routine automobile repair expenses are not reimbursable.
5. The contractor is required to furnish details surrounding each period of travel. Travel *expense reimbursement* detail may include, but not be limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc. *Reimbursement for travel expenses may be withheld pending receipt of adequate travel documentation.*
6. Contractors are to consult with the program with which the contract is held to obtain specific invoicing procedures.

## Travel Reimbursement Guide

Length of travel period	This condition exists...	Allowable Meal(s)
Less than 24 hours	Travel begins at 6:00 a.m. or earlier and continues until 9:00 a.m. or later.	Breakfast
Less than 24 hours	<ul style="list-style-type: none"> <li>Travel period ends at least one hour after the regularly scheduled workday ends, or</li> <li>Travel period begins prior to or at 4:00 p.m. and continues beyond 7:00 p.m.</li> </ul>	Dinner
24 hours	Travel period is a full 24-hour period determined by the time that the travel period begins and ends.	Breakfast, lunch, and dinner
Last fractional part of more than 24 hours	Travel period is more than 24 hours and traveler returns at or after 8:00 a.m.	Breakfast
	Travel period is more than 24 hours and traveler returns at or after 2:00 p.m.	Lunch
	Travel period is more than 24 hours and traveler returns at or after 7:00 p.m.	Dinner

7. At DHS' discretion, changes or revisions made by DHS to this exhibit, excluding travel policy established by DPA may be applied retroactively to any agreement to which a Travel Reimbursement Information exhibit is attached, incorporated by reference, or applied by DHS program policy.

**Exhibit I**  
**HIPAA Business Associate Addendum**

**I. Recitals – STANDARD RISK**

- A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations:").
- B. The Department of Health Services ("DHS") wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI").
- C. "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time.
- D. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- E. As set forth in this Agreement Contractor, here and after, is the Business Associate of DHS that provides services, arranges, performs or assists in the performance of functions or activities on behalf of DHS and creates, receives, maintains, transmits, uses or discloses PHI.
- F. DHS and Business Associate desire to protect the privacy and provide for the security of PHI created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, in compliance with HIPAA and HIPAA regulations and other applicable laws.
- G. The purpose of the Addendum is to satisfy certain standards and requirements of HIPAA and the HIPAA regulations.
- H. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.

In exchanging information pursuant to this Agreement, the parties agree as follows:

**1. Permitted Uses and Disclosures of PHI by Business Associate**

- A. **Permitted Uses and Disclosures.** Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of DHS, provided that such use or disclosure would not violate the HIPAA regulations, if done by DHS.
- B. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:
  - 1) **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or the Business Associate

**Exhibit I**  
**HIPAA Business Associate Addendum**

obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

- 2) **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to DHS. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of DHS with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of DHS.

**2. Responsibilities of Business Associate**

Business Associate agrees:

- A. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.
- B. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of DHS; and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section C, Security, below. Business Associate will provide DHS with its current and updated policies.
- C. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI, and provide data security procedures for the use of DHS at the end of the contract period. These steps shall include, at a minimum:
- 1) Complying with all of the data system security precautions listed in this Agreement or in an Exhibit attached to this Agreement; and
  - 2) Complying with the safeguard provisions in the Department's Information Security Policy, embodied in Health Administrative Manual (HAM), sections 6-1000 et . seq. and in the Security and Risk Management Policy in the Information Technology Section of the State Administrative Manual (SAM), sections 4840 et seq., in so far as the security standards in these manuals apply to Business Associate's operations. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with DHS.

- D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.



**Exhibit I**  
**HIPAA Business Associate Addendum**

- E. **Business Associate's Agents.** To ensure that any agents, including subcontractors, to whom Business Associate provides PHI received from or created or received by Business Associate on behalf of DHS, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including implementation of reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI; and to incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or subaward to such agents or subcontractors.
- F. **Availability of Information to DHS and Individuals.** To provide access as DHS may require, and in the time and manner designated by DHS (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to DHS (or, as directed by DHS), to an Individual, in accordance with 45 CFR Section 164.524. Designated Record Set means the group of records maintained for DHS that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for DHS health plans; or those records used to make decisions about individuals on behalf of DHS. Business Associate shall use the forms and processes developed by DHS for this purpose and shall respond to requests for access to records transmitted by DHS within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
- G. **Amendment of PHI.** To make any amendment(s) to PHI that DHS directs or agrees to pursuant to 45 CFR Section 164.526, in the time and manner designated by DHS.
- H. **Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from DHS, or created or received by Business Associate on behalf of DHS, available to DHS or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by DHS or by the Secretary, for purposes of determining DHS's compliance with the HIPAA regulations.
- I. **Documentation of Disclosures.** To document and make available to DHS or (at the direction of DHS) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with 45 CFR 164.528.
- J. **Notification of Breach.** During the term of this Agreement:
- 1) **Discovery of Breach.** To notify DHS **immediately by telephone call plus e-mail or fax** upon the discovery of breach of security of PHI in computerized form if the PHI was, or is reasonably believed to have been, acquired by an unauthorized person, or **within 24 hours by e-mail or fax** of any suspected security incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the DHS contract manager, the DHS Privacy Officer and the DHS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notification shall be provided by calling the DHS ITSD Help Desk. Business Associate shall take:
    - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
    - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
  - 2) **Investigation of Breach.** To immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, to notify the DHS contract manager(s), the DHS Privacy Officer, and the DHS Information Security Officer of:
    - i. What data elements were involved and the extent of the data involved in the breach,

**Exhibit I**  
**HIPAA Business Associate Addendum**

- ii. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data,
  - iii. A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized,
  - iv. A description of the probable causes of the improper use or disclosure; and
  - v. Whether Civil Code sections 1798.29 or 1798.82 or any other federal or state laws requiring individual notifications of breaches are triggered.
- 3) **Written Report.** To provide a written report of the investigation to the DHS contract managers, the DHS Privacy Officer, and the DHS Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.
- 4) **Notification of Individuals.** To notify individuals of the breach or unauthorized use or disclosure when required under state or federal law and to pay any costs of such notifications, as well as any costs associated with the breach. The DHS contract managers, the DHS Privacy Officer, and the DHS Information Security Officer shall approve the time, manner and content of any such notifications.
- 5) **DHS Contact Information.** To direct communications to the above referenced DHS staff, the Contractor shall initiate contact as indicated herein. DHS reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Agreement or Addendum.

<b>DHS Contract Manager</b>	<b>DHS Privacy Officer</b>	<b>DHS Information Security Officer</b>
See Provision 4 of Exhibit A for Contract Manager information	Privacy Officer % Office of Legal Services California Department of Health Services P.O. Box 997413, MS 0011 Sacramento, CA 95899-7413 Telephone: (916) 440-7750 Email: <a href="mailto:privacyofficer@dhs.ca.gov">privacyofficer@dhs.ca.gov</a>	Information Security Officer Information Security Office P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413 Email: <a href="mailto:dhsiso@dhs.ca.gov">dhsiso@dhs.ca.gov</a> Telephone: ITSD Help Desk 916-440-7000 or 800-579-0874

- K. **Employee Training and Discipline.** To train and use reasonable measures to ensure compliance with the requirements of this Addendum by employees who assist in the performance of functions or activities on behalf of DHS under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of this Addendum, including by termination of employment.

**Exhibit I**  
**HIPAA Business Associate Addendum**

**3. Obligations of DHS**

DHS agrees to:

- A. **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that DHS produces in accordance with 45 CFR 164.520, as well as any changes to such notice. Visit this Internet address to view the most current Notice of Privacy Practices: <http://www.dhs.ca.gov/hipaa>.
- B. **Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. **Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that DHS has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. **Requests Conflicting with HIPAA Rules.** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by DHS.

**4. Audits, Inspection and Enforcement**

From time to time, DHS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the DHS Privacy Officer in writing. The fact that DHS inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does DHS's:

- A. Failure to detect or
- B. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of DHS's enforcement rights under this Agreement and this Addendum.

**5. Termination**

- A. **Termination for Cause.** Upon DHS's knowledge of a material breach of this Addendum by Business Associate, DHS shall:
  - 1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DHS;
  - 2) Immediately terminate this Agreement if Business Associate has breached a material term of this Addendum and cure is not possible; or
  - 3) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.
- B. **Judicial or Administrative Proceedings.** Business Associate will notify DHS if it is named as a defendant in a criminal proceeding for a violation of HIPAA. DHS may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. DHS may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of

**Exhibit I**  
**HIPAA Business Associate Addendum**

HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.

- C. **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from DHS (or created or received by Business Associate on behalf of DHS) that Business Associate still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, shall continue to extend the protections of this Addendum to such information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

**6. Miscellaneous Provisions**

- A. **Disclaimer.** DHS makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- B. **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon DHS's request, Business Associate agrees to promptly enter into negotiations with DHS concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations or other applicable laws. DHS may terminate this Agreement upon thirty (30) days written notice in the event:
- 1) Business Associate does not promptly enter into negotiations to amend this Addendum when requested by DHS pursuant to this Section or
  - 2) Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that DHS in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to DHS at no cost to DHS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHS, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. **No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than DHS or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

**Exhibit I**  
**HIPAA Business Associate Addendum**

- E. **Interpretation.** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.
- F. **Regulatory References.** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. **Survival.** The respective rights and obligations of Business Associate under Section 6.C of this Addendum shall survive the termination or expiration of this Agreement.
- H. **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

**STANDARD AGREEMENT AMENDMENT**

STD 213 A (DHS Rev 5/06)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ADDED \_\_\_\_\_ PAGES

AGREEMENT NUMBER

**06-55044**

AMENDMENT NUMBER

**A01**

REGISTRATION NUMBER:

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME

California Department of Health Services

(Also referred to as CDHS, DHS, or the State)

CONTRACTOR'S NAME

Navigant Consulting, Inc.

(Also referred to as Contractor)

2. The term of this Agreement is July 1, 2006 through June 30, 2007

3. The maximum amount of this Agreement is: \$ 1,000,000
- 
- One Million Dollars

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

I. Amendment effective date: January 1, 2007

II. Purpose of amendment: This amendment reflects additional Scope of Work responsibilities suggested by the Bureau of State Audits' audit findings.

III. Certain changes made in this amendment are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).

IV. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is modified to reflect a different number of pages for the exhibit listed below.

Exhibit A – Scope of Work (6 7 pages)

V. The Scope of Work – Exhibit A is replaced in its entirety and reflects additional responsibilities.

All other terms and conditions shall remain the same.

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.****CONTRACTOR**

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

Navigant Consulting, Inc.

BY (Authorized Signature)

DATE SIGNED (Do not type)

3/14/07

PRINTED NAME AND TITLE OF PERSON SIGNING

Kevin D. Harris, Managing Director

ADDRESS

1201 Third Avenue, Suite 3320  
Seattle, WA 98101**STATE OF CALIFORNIA**

AGENCY NAME

California Department of Health Services

BY (Authorized Signature)

DATE SIGNED (Do not type)

3/28/07

PRINTED NAME AND TITLE OF PERSON SIGNING

Allan Chinn, Chief, Contracts and Purchasing Services Section

ADDRESS

1501 Capitol Avenue, Room 71.2101, MS 1403, P.O. Box 997413  
Sacramento, CA 95899-7413CALIFORNIA  
Department of General Services  
Use Only☒ Exempt per: W&I Code 14126.02 (c)

**Exhibit A**  
**Scope of Work**

**1. Service Overview**

Contractor agrees to provide to the Department of Health Services (DHS) the services described herein.

Contractor will provide consultant expertise for a review of the current skilled nursing reimbursement methodology as well as an examination of alternatives. These alternatives must minimally include consideration of existing or proposed acuity classification methods, case mix factors, labor based factors, and geographic cost differentials.

**2. Service Location**

The Contractor will perform some of the services on site at the Medi-Cal Policy Division, 1501 Capitol Avenue, Sacramento, CA, 95814. The remainder of services will be performed out-of-state.

**3. Service Hours**

The services shall be provided during working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official holidays.

**4. Projects Representatives**

A. The project representatives during the term of this agreement will be:

**Department of Health Services**  
~~Ruben Romero~~, **Alan Eng**, Chief  
LTC System Development Unit  
Telephone: (916) 552-9635  
Fax: (916) 552-9504  
E-mail: Rromero1@dhs.ca.gov  
**E-mail: Aeng@dhs.ca.gov**

**Contractor**  
Navigant Consulting, Inc.  
Kevin D. Harris, Managing Director  
Telephone: (206) 442-3000  
Fax: (206) 622-2787  
E-mail: Kharris@navigantconsulting.com

B. Direct all inquiries to:

**Department of Health Services**  
Administrative Support Unit  
Attention: Dalia Gouveia  
1501 Capitol Avenue, MS 4612  
P.O. Box 997413  
Sacramento, CA 95899-7413

**Contractor**  
Navigant Consulting, Inc.  
Attention: Kevin D. Harris, Managing Director  
1201 Third Avenue, Suite 3320  
Seattle, WA 98101

Telephone: (916) 552-9599  
Fax: (916) 552-9477  
E-mail: Dgouveia@dhs.ca.gov

Telephone: (206) 442-3000  
Fax: (206) 622-2787  
E-mail: Kharris@navigantconsulting.com

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

**Exhibit A**  
**Scope of Work**

**5. Services to be Performed**

- A. As the single state agency responsible for Medicaid rate development and implementation, DHS requires the consulting assistance of the Contractor to help define alternatives and options for California's reimbursement methodologies. The following scope of work includes many tasks designed to assist DHS in its decision making process. The final decisions regarding selection and implementation of long term care rate reimbursement methodology are the sole responsibility of DHS.
- B. Contractor shall examine several alternative rate methodology models for a new Medi-Cal reimbursement system for skilled nursing facilities to include, but not be limited to, consideration of the following:
  - 1) Classification of residents based on the resource utilization group system or other appropriate acuity classification system.
  - 2) Facility specific case mix factors.
  - 3) Direct care labor based factors.
  - 4) Geographic or regional differences in the cost of operating facilities and providing resident care.
  - 5) Facility-specific cost based rate models used in other states.
  - 6) Implementation requirements (including technical data requirements, fiscal resources, and timeframes).
- C. Contractor shall conduct various tasks in order to assist DHS with the development of a new Medi-Cal reimbursement system for skilled nursing facilities. Tasks may include, but not be limited to, the following:
  - 1) Collect, review, and analyze data from State and other sources.
  - 2) Review current flat-rate reimbursement methodology for skilled nursing facilities.
  - 3) Collect and review available long-term care data sources from California agencies.
  - 4) Conduct a review of all data sets used in the evaluation of California's reimbursement system.
  - 5) Review current skilled nursing facility audit program.
  - 6) Review audit work papers and discuss material audit adjustments with auditors.



**Exhibit A**  
**Scope of Work**

- 7) Review available monitoring and reporting systems associated with quality indicators.
  - 8) Review potential quality of care incentives under various reimbursement scenarios.
  - 9) Conduct research on quality of care incentives used by other state Medicaid agencies.
  - 10) Conduct research on methodology used by Medicare to reimburse skilled nursing facility services.
  - 11) Meet with interested parties and various state Medicaid agencies.
  - 12) Evaluate options for California's Long-Term Care reimbursement methodology, including a review of other state's reimbursement methodologies.
  - 13) Prepare status report to California State Legislature.
  - 14) Present alternative reimbursement methodologies and final recommendations to DHS.
  - 15) Provide DHS with technical assistance relative to the implementation of the new Medi-Cal reimbursement system.
- D. Tasks performed under the contract will be reimbursed on an hour times rate basis. The Contractor will not perform any services which exceed the available funding unless the contract is amended to provide additional funding. The Contractor will not be reimbursed for any services performed that exceed the available funding for the contract. Awarding of the contract does not guarantee any fixed sum of money. All work is to be authorized in advance in writing by DHS on an as-needed basis.

**6. DHS Contract Officer Responsibilities**

- A. The Contractor will carry out the work under the direction and control of DHS. DHS will designate a Contract Officer and notify the Contractor of such person's designation in writing. The Contract Officer shall make all determinations and take all actions as are appropriate under this contract subject to the limitations of applicable federal and California laws and regulations. The Contract Officer may delegate his/her authority to act to an authorized representative through written notice to the Contractor.
- B. Although there will be continuous liaison with the Contractor team, the DHS Project Director, or appropriate representative designated by the State, will converse at least monthly with the Contractor's project manager (or an appropriate representative) for the purpose of reviewing progress and providing necessary guidance.

**Exhibit A**  
**Scope of Work**

- C. Subservient to contract issuance, Contractor will submit brief, written monthly summaries of progress which outline the work accomplished during the reporting period.

**7. Authorizing Legislation**

The intent of Assembly Bill (AB) 1629, (Chapter 875, Statutes of 2004, W&I Code Sections 14126-14126.035) is to implement a facility specific rate setting system for free standing nurse facilities effective and commencing on August 1, 2005.

**8. Allowable Informal Scope of Work Changes**

- A. The Contractor or the State may propose informal changes or revisions to the activities, tasks, deliverables and/or performance time frames specified in the Scope of Work, provided such changes do not alter the overall goals and basic purpose of the agreement.
- B. Informal SOW changes may include the substitution of specified activities or tasks; the alteration or substitution of contract deliverables and modifications to anticipated completion/target dates.
- C. Informal SOW changes processed hereunder, shall not require a formal agreement amendment, provided the contractor's annual budget does not increase or decrease as a result of the informal SOW change.
- D. Unless otherwise stipulated in this agreement, all informal SOW changes and revisions are subject to prior written approval by the State.
- E. In implementing this provision, the State may provide a format for the Contractor's use to request informal SOW changes. If no format is provided by the State, the Contractor may devise its own format for this purpose.

**9. Subcontract Requirements**

- A. This provision replaces and supersedes provision 5 of Exhibit D(F).
- B. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in paragraph B(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - 1) The Contractor must provide in its request for authorization, all particulars necessary for evaluating the necessity or desirability of incurring such cost.
  - 2) The State may identify the information needed to fulfill this requirement.
  - 3) Subcontracts performed by the entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

**Exhibit A**  
**Scope of Work**

- a. A local governmental entity or the federal government,
  - b. A State college or university from any State,
  - c. A Joint Powers Authority,
  - d. An auxiliary organization of a California State University or a California Community college,
  - e. A foundation organized to support the Board of Governors of the California Community Colleges,
  - f. An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
  - g. Entities of any type that will provide subvention aid or direct services to the public.
  - h. Entities and/or service types identified as exempt from advertising in State Administrative Manual Section 1233, subsection 3. View this publication at the following Internet address: <http://sam.dgs.ca.gov>,
  - i. Other academic institutions of higher education, or consortia of academic institutions of higher education (including private universities and educational institutes),
  - j. Entities whose name and budgeted costs have been submitted to DHS in response to a competitive Invitation for Bid or Request for Proposal.
- C. DHS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this agreement.
- 1) Upon receipt of a written notice from DHS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHS.
- D. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHS. DHS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHS.
- E. Contractor shall maintain a copy of each subcontract entered into in support of this agreement and shall, upon request by DHS, make said copies available for approval, inspection, or audit.
- F. DHS assumes no responsibility for the payment of subcontractors used in performance of this agreement. Contractor accepts sole responsibility for the payment of subcontractor used in performance of this agreement.
- G. The Contractor is responsible for all performance requirements under this agreement even though performance may be carried out through a subcontract.
- H. When entering into a consulting service agreement with DHS, the Contractor may be required to supply budget detail for each subcontractor and/or each major subcontracted activity under this agreement.
- 1) Budget detail format and submission requirements will be determined by DHS.

**Exhibit A**  
**Scope of Work**

- 2) Methods of including budget detail in this agreement, if applicable, will be determined by DHS.
- 3) Any subcontractor budget detail displayed in this agreement, or incorporated by reference, is included for information purposes only. Changes to a subcontractor's identity or budget detail shall not require the processing of a formal amendment to this agreement.
- I. The Contractor shall ensure that all subcontracts for services include provisions(s) requiring compliance with applicable terms and conditions specified in this agreement.
- J. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

“(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHS, to permit DHS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records.”
- K. Unless otherwise stipulated in writing by DHS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this agreement.
- L. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the applicable numbered provisions of this exhibit.

**10. Turnover/Process Documentation**

- A. As part of the turnover process, the Contractor agrees to provide DHS with the program code, associated rules and documentation associated with the Contractor's developed reimbursement rate application. In addition, the Contractor will assist DHS, as requested, with its 60-day response to the Bureau of State Audits' audit report. This assistance could include documentation that addresses the implementation of the reimbursement rate development methodology, as well as evidence that the application, when used, produced the prior nursing home reimbursement rates that DHS published for fiscal year 2005-06, exclusive of subsequent adjustments made independently by DHS. The Contractor will assist DHS in developing procedures and related documentation to be followed regarding subsequent changes to the program code, as well as appropriate transmittal and approval procedure documentation.**

**Exhibit A**  
Scope of Work

**11. Training**

- A. The Contractor will provide DHS with appropriate training to operate the reimbursement rate application. Formal training will begin in January 2007, and be scheduled for completion in May 2007. Training completion and training completion deadlines will be subject to DHS restrictions and/or limitations. The training sessions are intended to include key DHS staff members participating in both theory and practice sessions, subject to DHS restrictions and/or limitations.**

## STANDARD AGREEMENT AMENDMENT

STD 213 A (DHS Rev 3/07)

☒ Check here if additional pages are added: 2 Page(s)

Agreement Number

06-55044

Amendment Number

A02

Registration Number:

## 1. This Agreement is entered into between the State Agency and Contractor named below:

State Agency's Name

(Also referred to as CDHS, DHS, or the State)

California Department of Health Services

Contractor's Name

(Also referred to as Contractor)

Navigant Consulting, Inc.

## 2. The term of this July 1, 2006 through June 30, 2008

Agreement is:

## 3. The maximum amount of this \$ 2,200,000

Agreement after this amendment is: Two Million Two Hundred Thousand Dollars

## 4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

## I. Amendment effective date: January 1, 2007

II. Purpose of amendment: This amendment increases the total budget in Year 1 to compensate the Contractor for additional hours needed to perform services in Year 1. In addition, this amendment extends the contract term for one year; continues the Scope of Work activities into Year 2, and increases the total budget to compensate the Contractor for performing services in Year 2. CDHS is obtaining a continuation of services identified in the original agreement.

III. Certain changes made in this amendment are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).

IV. Paragraph 2 (term) on the face of the original STD 213 is amended to read: July 1, 2006 through ~~June 30, 2007~~ **June 30, 2008**. All references to the former contract term of July 1, 2006 through June 30, 2007 in any exhibit incorporated into this agreement are hereinafter deemed to read July 1, 2006 through June 30, 2008.

V. Paragraph 3 (maximum amount payable) on the face of the original STD 213 is increased by \$1,200,000 and is amended to read: ~~\$1,000,000 (One Million Dollars)~~ **\$2,200,000 (Two Million Two Hundred Thousand Dollars)**.

(Continued on next page)

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

## CONTRACTOR

Contractor's Name (If other than an individual, state whether a corporation, partnership, etc.)

Navigant Consulting, Inc.

By (Authorized Signature)

Date Signed (Do not type)

Printed Name and Title of Person Signing

Kevin D. Harris, Managing Director

Address

1201 Third Avenue, Suite 3320  
Seattle, WA 98101

## STATE OF CALIFORNIA

Agency Name

California Department of Health Services

By (Authorized Signature)

Date Signed (Do not type)

Printed Name and Title of Person Signing

Allan Chinn, Chief, Contracts and Purchasing Services Section

Address

1501 Capitol Avenue, Room 71.2101, MS 1403, P.O. Box 997413  
Sacramento, CA 95899-7413CALIFORNIA  
Department of General Services  
Use Only☒ Exempt per: W&I Code 14126.02(c)

- VI. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is amended to add the following exhibits:

Exhibit A, Attachment II – Deliverable Timeline (1 page)  
Exhibit B, Attachment II – Budget (Year 2) (1 page)

- VII. Exhibit B entitled Budget Detail and Payment Provisions is amended to add the following provision:

**9. Amounts Payable**

**A. The amounts payable under this agreement shall not exceed:**

- 1) \$1,200,000 for the budget period of 07/01/06 through 06/30/07
- 2) \$1,000,000 for the budget period of 07/01/07 through 06/30/08

**B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.**

- VIII. Exhibit B, Attachment I entitled, "Budget" is revised and replaced in its entirety by the attached revised Budget.

- IX. Exhibit E entitled Additional Provision is amended to add the following provision.

**10. Departmental Reorganization**

**A. The parties to this agreement acknowledge that the California Public Health Act of 2006 (Act; Senate Bill 162, Chapter 241, Statutes 2006), effective July 1, 2007, establishes the California Department of Public Health (CDPH) and renames the California Department of Health Services (CDHS) as the California Department of Health Care Services (DHCS).**

**B. Agreements approved before July 1, 2007 shall continue in full force and effect, with the renamed DHCS and the newly formed CDPH assuming all of the rights, obligations, liabilities, and duties of the former CDHS and any of its predecessors as relates to the duties, powers, purposes, responsibilities, and jurisdiction vested by the Act in each of the resulting departments.**

**C. Agreements approved on or after July 1, 2007 that refer to CDHS shall be interpreted to refer to the renamed DHCS or the newly formed CDPH, as appropriate under the terms of the agreement. DHCS or CDPH, as appropriate under the terms of the agreement, shall assume all of the rights, obligations, liabilities, and duties of the former CDHS and any of its predecessors as relates to the duties, powers, purposes, responsibilities, and jurisdiction vested by the Act in each of the resulting departments. The assumption by each department shall not in any way affect the right of the parties to the agreement.**



D. As a result of the departmental reorganization discussed above, various CDHS programs may experience a physical relocation, change in personnel, change in procedures, or other effect. If this agreement is impacted by SB 162, CDHS reserves the right, without initiation of a formal amendment, to issue one or more written notices to the Contractor supplying alternate information and/or instructions regarding invoicing, document addressing, personnel changes, and/or other procedural changes.

X. All other terms and conditions shall remain the same.



## Exhibit A, Attachment II Deliverable Timeline

Subject Area		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
<b>Proposed Deliverables</b>													
1	Finalize 2007/2008 Rates												
	1a. Finalization of rates, preparation of spreadsheets for posting on CDHS website												
	1b. Complete documentation of 2007/08 rate-setting details for CDHS files (on-going)												
2	2006 Audit Data												
	2a. Work with A&I to determine audit production, including targeted audits based on 2005 reported supplemental schedule information												
	2b. Review current SNF audit program with A&I, based on provider behavior under AB1629; Assist A&I in developing capital supplemental audit program												
	2c. Review audit work papers and discuss material audit adjustments with A&I												
	2d. Collect finalized appeal information and incorporate into A&I database												
	2e. Incorporate data into Application and test resulting rates												
3	Supplemental Schedules												
	3a. Revise 2006 supplemental schedules and instructions, adding Quality Assurance Fee information												
	3b. Assist CDHS in incorporating supplemental schedules in audit process												
	3c. Assist in development of provider communication												
	3d. Prepare information for posting on DHS website												
4	2006 OSHPD Data												
	4a. Request Change of Ownership (CHOW) listing from L&C; research CHOWs												
	4b. Request and review as-submitted CY ending 2006 OSHPD Data; define rate-setting population												
	4c. Assist CDHS in verifying OSHPD Dataset and following-up on data issues/anomalies												
	4d. Incorporate data into Application and test resulting rates												
5	Audit Adjustment Factors												
	5a. Incorporate 2005 finalized audit appeals into A&I database												
	5b. Develop 2005 audit adjustment factors for facilities whose CY ending 2006 OSHPD Report was not audited												
	5c. Review and research unusually high or low audit adjustment factors with A&I												
6	Fair Rental Value System												
	6a. Incorporate 2007 RS Means data into FRYS Model.												
	6b. Update FRYS model for 2008/09 rate-setting population												
7	Inflation Factors												
	7a. Review reported capital additions/modifications with A&I; Incorporate improvements into FRYS Model and develop modified facility age information												
	7b. Develop non-labor inflation factor using CCPI information; Incorporate into Application												
8	Other Tasks												
	8a. Incorporate RDB Labor Study into Application												
	8b. Review quality of care incentives for potential incorporation into rate-setting												
	8c. Assist CDHS in evaluating and analyzing proposed legislation that will extend/modify AB1629												
	8d. Incorporate Application Visual Basic coding changes required by new legislation, if necessary												

KEY:  Task  Deliverable

**Exhibit B, Attachment I**  
**Budget**  
**(Year 1)**  
**(07/01/06 through 06/30/07)**

The basis of payment for services required by this contract shall be all-inclusive hourly rates of the Contractor's professional personnel for time actually authorized and spent performing the required services. These hourly rates shall include, but not be limited to, all overhead costs of the Contractor, wages, benefits, profit, office support costs, clerical and support personnel, equipment, duplicating costs, insurance, etc. The projected personnel hours are only estimates and will fluctuate based on the service needs. State and Contractor reserve the right to mutually agree to adjust the number of hours worked between class levels provided the total amount shown for Projected Personnel Fees remains unchanged. The hourly rates payable to the Contractor for services rendered under this contract are as follows:

**Personnel**

<u>Personnel Class</u>	<u>Hourly Rates/Fees</u>
Consultant Level One	\$305
Consultant Level Two	\$250
Consultant Level Three (To be determined)	\$190
Consultant Level Four	\$170

Projected Personnel Fees and Expenses	\$973,500
	<b><u>\$1,163,500</u></b>

Travel (See Exhibit B, #9 <b>#8</b> )	\$25,000
	<b><u>\$35,000</u></b>

**Other Costs**

Other extraordinary non-incidental expenses incurred by the Contractor in performing a specific task with prior authorization by the Contract Manager.

\$1,500

Other incidentals including but not limited to such services as courier services, specialized Internet database search services, etc.

<b>Total Costs</b>	<u>\$1,000,000</u>
	<b><u>\$1,200,000</u></b>

**Exhibit B, Attachment II**  
Budget  
(Year 2)  
(07/01/07 through 06/30/08)

The basis of payment for services required by this contract shall be all-inclusive hourly rates of the Contractor's professional personnel for time actually authorized and spent performing the required services. These hourly rates shall include, but not be limited to, all overhead costs of the Contractor, wages, benefits, profit, office support costs, clerical and support personnel, equipment, duplicating costs, insurance, etc. The projected personnel hours are only estimates and will fluctuate based on the service needs. State and Contractor reserve the right to mutually agree to adjust the number of hours worked between class levels provided the total amount shown for Projected Personnel Fees remains unchanged. The hourly rates payable to the Contractor for services rendered under this contract are as follows:

**Personnel**

<u>Personnel Class</u>	<u>Hourly Rates/Fees</u>
Consultant Level One	\$315
Consultant Level Two	\$260
Consultant Level Three (To be determined)	\$200
Consultant Level Four	\$180

Projected Personnel Fees and Expenses \$974,500

**Travel** (See Exhibit B, #8) \$24,000

**Other Costs** \$1,500

Other extraordinary non-incidentals expenses incurred by the Contractor in performing a specific task with prior authorization by the Contract Manager.

Other incidentals including but not limited to such services as courier services, specialized Internet database search services, etc.

**Total Costs** \$1,000,000

## STANDARD AGREEMENT AMENDMENT

STD 213A\_DHCS (1/08)

☒ Check here if additional pages are added: 2 Page(s)

Agreement Number

06-55044

Amendment Number

A03

Registration Number:

1. This Agreement is entered into between the State Agency and Contractor named below:

State Agency's Name

(Also known as DHCS, CDHS, DHS or the State)

Department of Health Care Services

Contractor's Name

(Also referred to as Contractor)

Navigant Consulting, Inc.

2. The term of this July 1, 2006 through June 30, 2009 Agreement is:

3. The maximum amount of this \$ 3,200,000 Agreement after this amendment is: Three Million Two Hundred Thousand Dollars

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

- I. Amendment effective date: July 1, 2008

- II. Purpose of amendment: This amendment extends the contract term for one year; continues the Scope of Work activities into Year 3, and increases the total budget to compensate the Contractor for performing services in Year 3. DHCS is obtaining a continuation of services identified in the original agreement.

- III. Certain changes made in this amendment are shown as: Text additions are displayed in
- bold and underline**
- . Text deletions are displayed as strike through text (i.e.,
- ~~Strike~~
- ).

- IV. Paragraph 2 (term) on the face of the original STD 213 is amended to read: July 1, 2006 through
- ~~June 30, 2008~~
- June 30, 2009**
- . All references to the former contract term of July 1, 2006 through June 30, 2008 in any exhibit incorporated into this agreement are hereinafter deemed to read July 1, 2006 through June 30, 2009.

- V. Paragraph 3 (maximum amount payable) on the face of the original STD 213 is increased by \$1,000,000 and is amended to read:
- ~~\$2,200,000 (Two Million Two Hundred Thousand Dollars)~~
- \$3,200,000 (Three Million Two Hundred Thousand Dollars)**
- .

(Continued on next page)

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

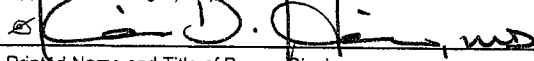
## CONTRACTOR

Contractor's Name (If other than an individual, state whether a corporation, partnership, etc.)

Navigant Consulting, Inc.

By (Authorized Signature)

Date Signed (Do not type)



2/28/09

Printed Name and Title of Person Signing

Kevin D. Harris, Managing Director

Address

1201 Third Avenue, Suite 3320  
Seattle, WA 98101

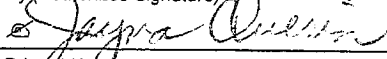
## STATE OF CALIFORNIA

Agency Name

Department of Health Care Services

By (Authorized Signature)

Date Signed (Do not type)



3-14-08

Printed Name and Title of Person Signing

Jayna Querin, Chief, Contract Management Unit

Address

1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413,  
Sacramento, CA 95899-7413CALIFORNIA  
Department of General Services  
Use Only☒ Exempt per: W&I Code 14126.02(c)

VI. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is amended to add the following exhibits:

Exhibit A, Attachment III – Deliverable Timeline (1 page)

Exhibit B, Attachment III – Budget (Year 3) (1 page)

VII. Exhibit A - Scope of Work, Provision 4, Projects Representatives, is amended to read as follows:

4. Projects Representatives

A. The project representatives during the term of this agreement will be:

**Department of Health Care Services**

~~Alan Eng~~ **John McCraw, Contract Manager**

LTC System Development Unit

Telephone: ~~(916) 552-9635~~ **(916) 552-9542**

Fax: ~~(916) 552-9504~~ **(916) 650-6424**

E-mail: ~~Aeng@dhs.ca.gov~~

**E-mail: John.McCraw**

**Contractor**

Navigant Consulting, Inc.

Kevin D. Harris, Managing Director

Telephone: (206) 442-3000

Fax: (206) 622-2787

E-mail: ~~Kharris@navigantconsulting.com~~

B. Direct all inquiries to:

**Department of Health Care Services**

Administrative Support Unit

Attention: Dalia Gouveia

1501 Capitol Avenue, MS 4612

P.O. Box 997413

Sacramento, CA 95899-7413

Telephone: (916) 552-9599

Fax: ~~(916) 552-9477~~ **(916) 552-9137**

E-mail: ~~Dgouveia@dhs.ca.gov~~

**E-mail: Dalia.Gouveia@dhcs.ca.gov**

**Contractor**

Navigant Consulting, Inc.

Attention: Kevin D. Harris, Managing Director

1201 Third Avenue, Suite 3320

Seattle, WA 98101

Telephone: (206) 442-3000

Fax: (206) 622-2787

E-mail: ~~Kharris@navigantconsulting.com~~

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

VIII. Exhibit B, Budget Detail and Payment Provisions, Provision 9, Amounts Payable, is amended to read as follows:

9. Amounts Payable

A. The amounts payable under this agreement shall not exceed:

1) \$1,200,000 for the budget period of 07/01/06 through 06/30/07.

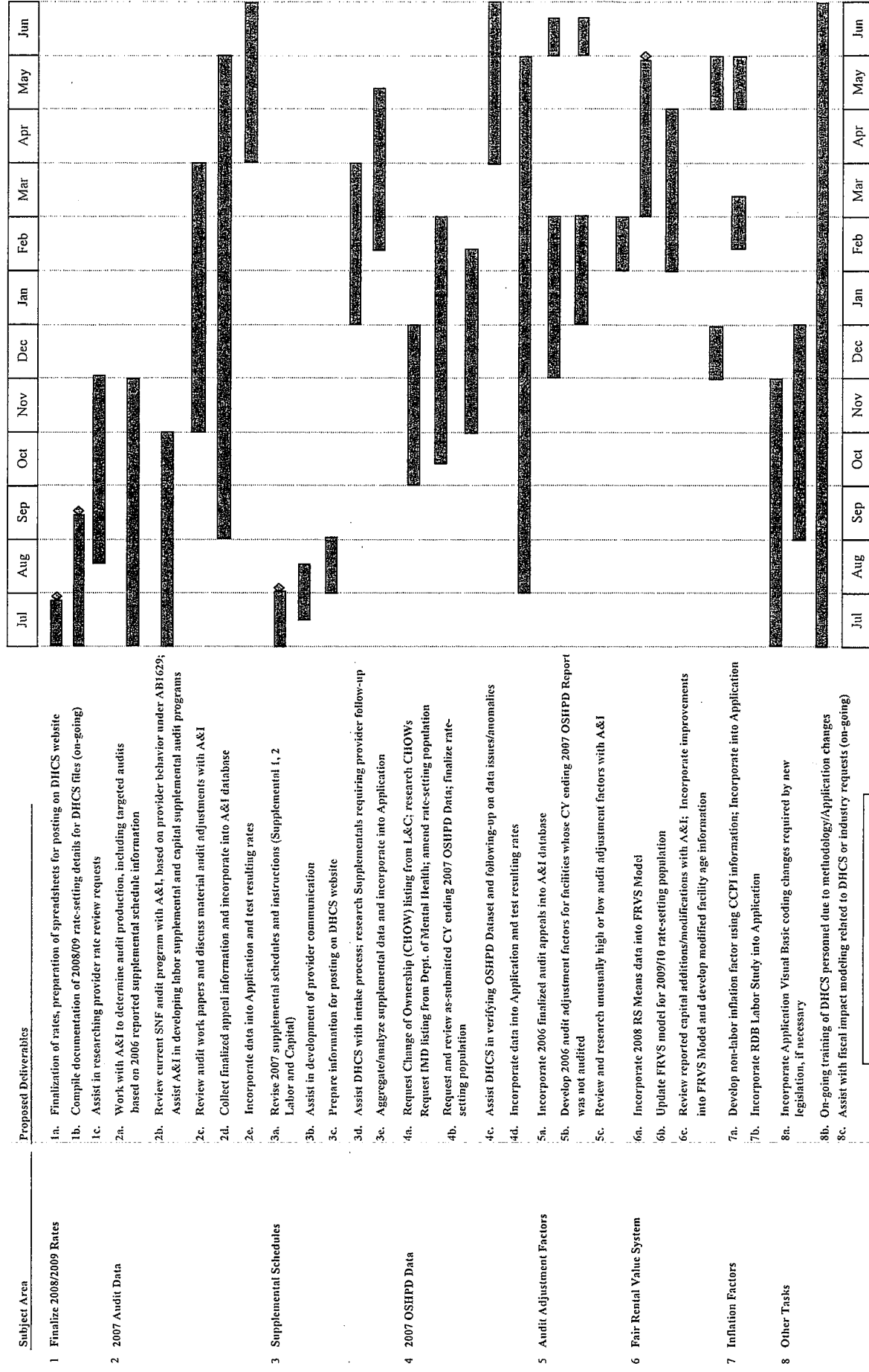


2) \$1,000,000 for the budget period of 07/01/07 through 06/30/08.

**3) \$1,000,000 for the budget period of 07/01/08 through 06/30/09.**

B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.

X. All other terms and conditions shall remain the same.

### Exhibit A, Attachment III Deliverable Timeline


 KEY:  Task  Deliverable

**Exhibit B, Attachment III**  
Budget  
(Year 3)  
(07/01/08 through 06/30/09)

The basis of payment for services required by this contract shall be all-inclusive hourly rates of the Contractor's professional personnel for time actually authorized and spent performing the required services. These hourly rates shall include, but not be limited to, all overhead costs of the Contractor, wages, benefits, profit, office support costs, clerical and support personnel, equipment, duplicating costs, insurance, etc. The projected personnel hours are only estimates and will fluctuate based on the service needs. State and Contractor reserve the right to mutually agree to adjust the number of hours worked between class levels provided the total amount shown for Projected Personnel Fees remains unchanged. The hourly rates payable to the Contractor for services rendered under this contract are as follows:

**Personnel**

<u>Personnel Class</u>	<u>Hourly Rates/Fees</u>
Consultant Level One	\$320
Consultant Level Two	\$265
Consultant Level Three	\$210
Consultant Level Four	\$190

Projected Personnel Fees and Expenses \$974,500

**Travel** (See Exhibit B, #8) \$24,000

**Other Costs** \$1,500

Other extraordinary non-incidental expenses incurred by the Contractor in performing a specific task with prior authorization by the Contract Manager.

Other incidentals including but not limited to such services as courier services, specialized Internet database search services, etc.

**Total Costs** \$1,000,000